FAMILY FRIENDLY WORKPLACE ORDINANCE (FFWO)
Employer Compliance Requirements

City and County of San Francisco
Office of Labor Standards Enforcement (OLSE)

Patrick Mulligan, Director
Family Friendly Workplace Ordinance (FFWO) Overview

- Allows employees to request Flexible or Predictable Working Arrangements
- Prohibits adverse employment actions based on caregiver status.
- Prohibits retaliation and interference with rights
- Requires notice posting
- Requires maintenance of records
- Authorizes OLSE enforcement
- Authorizes collective bargaining waiver
Covered Employers

Any employer who regularly employs 20 or more employees, worldwide.

- Count all employees, regardless of whether they are seasonal, commissioned, permanent, temporary, full-time, or part-time.
Covered Employees

An employee is covered if that individual:

• Has been employed by the employer for six months or more; and

• Regularly works at least 8 hours per week in San Francisco.
Employee Rights

Employees covered by the FFWO have the right to request a flexible or predictable working arrangement to assist with caregiving responsibilities for:

- A child or children for whom the employee has parental responsibility
- A person with a Serious Health Condition in a Family Relationship with the employee
- The employee’s parent, age 65 or older
Employee Rights (Continued)

The employee’s request may include, but is not limited to, request for changes in:

- The number of hours worked
- Times worked
- Work location
- Work assignments
- Predictability of work schedule
Employee Rights (Continued)

• Request must be in writing, specify the change requested, the effective date and duration, and explain how it’s related to caregiving.

• If the initial request is verbal, the employer shall instruct the employee to prepare a written request.

• Employees may use the sample *Flexible or Predictable Work Arrangement Request Form* available on the OLSE’s FFWO webpage
Employer Response Requirements

After receiving a request, the employer is required to:

• Meet with the employee within 21 days.
• Consider the request and respond within 21 days of the meeting.

The employer may grant or deny the request.
Verification

An employer can choose to require that an employee provide verification of his/her caregiving responsibilities.

- Requests for verification should be reasonable and not deter employees from making a request for a flexible or predictable work arrangement.

- The employer should be careful not to violate applicable privacy laws.
Employer Response Requirements (Continued)

If the employer *grants* the request:

- Employer must confirm the arrangement in writing
- The employer or the employee can revoke the arrangement (with 14 days notice)
  - If the employer revokes the agreement, the employee may request a new flexible or predictable work arrangement.
If the employer **denies** the request, the employer is required to:

- Explain the denial in writing and provide a bona fide business reason for the denial.
- Notify the employee of the right to request a reconsideration.

A request for a reconsideration must be made within 30 days of a denial. If the employee makes a request for reconsideration, the employer must meet with the employee again, and issue a final decision.
Reasons for Denial

Bona fide business reasons for denying a request for a flexible or predictable working arrangement may include, but are not limited to, the following:

- Identifiable cost, such as:
  - Productivity loss
  - Retraining or rehiring cost
  - Cost of transferring employees

- Detrimental impact on ability to meet customer or client demand

- Inability to organize work among other employees

- Insufficient work during proposed schedule
FFWO Request Process

Employee request

Employer meets with employee

Employer response

Employer grants request

Employer denies request

Employee may request reconsideration

Second Meeting

Final Employer Decision
Frequency of requests

An employee can request a flexible or predictable work arrangement twice in a 12-month period.

- If the employee experiences a major life event, he/she can make an additional request in that 12-month period.

- If an employer revokes a flexible or predictable work arrangement, the employee may submit an additional request in that 12-month period.
Employee Protections

FFWO prohibits employers from taking adverse employment action against any person on the basis of:

- Caregiver status
- In retaliation for exercising rights protected under the FFWO
Additional Employer Responsibilities

Employers are required to:

• **Post the FFWO Notice** in a conspicuous place at all workplaces and jobsites in English, Spanish, Chinese, and any language spoken by at least 5% of employees;

• **Maintain records** about requests for flexible or predictable work arrangements for 3 years from the date of an employee’s request. Allow OLSE access to records to monitor compliance.
Waivers and Exemptions

• A collective bargaining agreement can waive any or all of the provisions of the FFWO.

• OLSE may exempt certain employees working in public safety or public health functions, if an employer requests an exemption.
Enforcement

The Office of Labor Standards Enforcement (OLSE) enforces the FFWO. OLSE review is limited to:

- Employer’s adherence to procedural, posting, and record-keeping requirements
- Validity of any claims of adverse employment action based on exercising rights or on caregiver status
Enforcement: Penalties

- OLSE will issue warnings and *Notices to Correct* for the first year the FFWO is operative (January 1, 2014 to December 31, 2014).

- Beginning 2015, if OLSE determines that a violation has occurred, it may order any appropriate relief, *including but not limited to*:
  - Penalties of up to $50 per individual per day, for each day that an individual’s rights are violated under the FFWO—to be paid to each individual.
  - Same to compensate the City for enforcement costs.

- All remedies, penalties, and procedures are cumulative.
Civil Enforcement

The City has the right to bring a civil action in court.
Appeal Procedure

- An employer may respond to any notice of violation.
- An employer may appeal the OLSE’s determination to an independent hearing officer.
Other Resources

• Online: www.sfgov.org/olse/ffwo
  o Required Notice
  o Full text of the FFWO
  o And more!
• FFWO email: FFWO@sfgov.org.
• FFWO help line: (415) 554-6424