

Committee Item No. 3
Board Item No. 27

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date:** September 23, 2013

Board of Supervisors Meeting

Date October 1, 2013

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Introduction Form
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OTHER

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Completed by: Alisa Miller Date September 19, 2013
Completed by: Alisa Miller Date September 25, 2013

[Administrative Code - Family Friendly Workplace Ordinance]

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; prohibit adverse employment actions based on caregiver status; prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; require employers to post a notice informing employees of their rights under the Ordinance; require employers to maintain records regarding compliance with the Ordinance; authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~striketrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~striketrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130785 and is incorporated herein by reference.

Section 2. The Administrative Code is hereby amended by adding Chapter 12Z, to read as follows:

CHAPTER 12Z. SAN FRANCISCO FAMILY FRIENDLY WORKPLACE ORDINANCE

Sec. 12Z.1 Title.

Sec. 12Z.2 Findings.

Sec. 12Z.3 Definitions.

Sec. 12Z.4 Right to Request Flexible or Predictable Working Arrangement.

Sec. 12Z.5 Response to Request for Flexible or Predictable Working Arrangement.

Sec. 12Z.6 Request for Reconsideration by Employee from the Denial of Request for Flexible or Predictable Working Arrangement.

Sec. 12Z.7 Exercise of Rights and Caregiver Status Protected; Retaliation Prohibited.

Sec. 12Z.8 Notice and Posting Requirements for Employers.

Sec. 12Z.9 Employer Records.

Sec. 12Z.10 Implementation and Enforcement.

Sec. 12Z.11 Exemption of Certain Job Classifications Pertaining to Public Health and Public Safety.

Sec. 12Z.12 Waiver through Collective Bargaining.

Sec. 12Z.13 Other Legal Requirements.

Sec. 12Z.14 Rulemaking Authority.

Sec. 12Z.15 Outreach.

Sec. 12Z.1516 Preemption.

Sec. 12Z.1617 City Undertaking Limited to Promotion of General Welfare.

1 Sec. 12Z.1718 Severability.

2
3 SEC. 12Z.1. TITLE.

4 This Chapter shall be known as the "San Francisco Family Friendly Workplace Ordinance."

5
6 SEC. 12Z.2. FINDINGS.

7 1. Over the last few decades, the demographics of the nation's workforce and the structures of
8 the nation's families have undergone significant changes. As detailed below, these changes include an
9 increased number of women in the workforce; fewer households with children that have at least one
10 parent staying at home full-time; and more single-parent households. As a result of these and other
11 changes, the demands placed on workers with family responsibilities are greater and more complex
12 today than they were in an earlier era. As in every American city, San Francisco's workforce and
13 families have experienced these changes.

14 2. A marked change in the workforce, and consequently in families, is the large increase in
15 numbers of women who now work outside the home. In 1960, the wife was employed in approximately
16 26 percent of families. In April 2013, in approximately 68 percent of families, married mothers worked
17 outside the home.

18 3. Another marked change from an earlier era is that now far fewer households have a parent
19 who does not work outside the home. Nationally, more than seventy percent of children are raised in
20 households that are headed by either a working single parent or two working parents. In 1975, a little
21 more than a third of households with married parents and children had both parents in the workforce.
22 Now, the figure is approximately two-thirds. In San Francisco in 2010, approximately eighty percent
23 of parents living with at least one child under the age of five were in the workforce.

1 4. The number of single-parent households has increased substantially, more than doubling
2 over the last fifty years. Today, at least 15-20 percent of households are single-parent. Approximately
3 half of all births to women under age 30 are to single mothers.

4 5. Americans are living longer than they ever did, and many families have direct caregiving
5 responsibilities for elderly parents or other older relatives. Family members serving this caregiving
6 role face the same work/family pressures as parents with minor children, and when they also have
7 caregiving responsibilities for minor children, their family burdens in effect are compounded.
8 Nationally, more than half of persons who provide unpaid care to an adult or to a child with special
9 needs are employed outside the home, with the large majority of those employees working full time.
10 Approximately 32,000 San Franciscans who work outside the home live with family members 65 years
11 and older.

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

22 7. An employee's actual or perceived status as a caregiver can create workplace and pay
23 inequities, which often operate to the detriment of women and their families because of the continuing
24 primary role of women as caregivers in the United States. These problems are most obvious when an
25 employer refuses to hire an employee because of that person's family or other caregiving

1 responsibilities. Legal protection of caregivers against such arbitrary acts does not currently exist.
2 But pay inequity may arise even if an employer does not consciously intend to place workers at a
3 disadvantage because of their actual or perceived status as caregivers. For example, employees with
4 caregiving responsibilities may be channeled into or may themselves gravitate toward lower-paying
5 assignments or career paths that they or their employer view as more compatible with family needs.
6 Employees may temporarily drop out of the workforce because there is insufficient workplace
7 flexibility, and when they return to the workforce they may be unable to catch up to the pay rates of
8 employees performing the same or similar work who did not leave.

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

17 9. Many employers expect that employees will outsource childcare and other caregiving
18 responsibilities, without considering that such costs may constitute an unsustainable proportion of
19 family income relative to other expenses. Other employers expect family members of the employee to
20 assume childcare and other caregiving responsibilities, without considering that such family members
21 may not exist, or may themselves have work responsibilities that foreclose their assuming these
22 functions.

23 10. In response to the needs of the modern workforce, some employers have instituted flexible
24 work arrangements that alter the time or place at which work is conducted, or the amount of work that
25 is conducted, to allow employees to more easily meet the needs of both work and family life. But even

1 when employers offer flexible workplace arrangements, employees may not avail themselves of such
2 arrangements for reasons such as stigma and lack of consistent consideration of such requests.
3 Employees who seek flexible work arrangements may endure a "flexibility bias" or "flexibility stigma"
4 in which they are discredited and devalued in the workplace. Aware of this problem, some employees
5 forego flexible work opportunities. And many employees do not have such opportunities, because many
6 employers do not systematically offer or consider requests for flexible working arrangements but
7 instead, leave requests from employees to the discretion of an individual manager, or do not even allow
8 consideration of such requests. This voluntary patchwork system of accommodating employees' needs
9 for flexible working arrangements falls far short of meeting those needs.

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

15 12. Experience with laws in other countries to increase workplace flexibility has been
16 overwhelmingly positive. Workplace flexibility has been shown to benefit employers and employees, as
17 well as the environment. In recent years, the United Kingdom, Australia, Northern Ireland, and New
18 Zealand have pioneered model workplace laws that grant parent and caregiver workers the right to
19 request flexible working arrangements. In Great Britain, in the first year after implementing the right
20 to request, a million parents came forward, and nearly all requests were granted with little opposition
21 on the part of employers. The experiences of these countries have been so successful that some
22 countries are expanding their laws from parents and caregivers to all employees. Already in Belgium,
23 France and the Netherlands, flexible workplace arrangements are open to all employees and are not
24 targeted to employees with childcare or caregiving responsibilities.
25

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

8 14. Similar "right to request" legislation at the Federal level was introduced in 2007 by then-
9 U.S. Senators Edward M. Kennedy, Hillary Clinton and Barack Obama; the same bill has been
10 introduced three times since 2007, most recently in June 2013. Despite a 2010 White House summit on
11 this topic, these Congressional attempts have not been successful. Recently, the State of Vermont was
12 the first jurisdiction in the United States to pass a "right to request" law modeled after the
13 Congressional bill. A growing number of state and local governments have also passed laws explicitly
14 prohibiting discrimination based on caregiver status.

15 15. Studies indicate that providing employees with access to flexible work arrangements
16 reduces the conflicts many face between their work responsibilities and their family obligations, with
17 the effect of enhancing employee satisfaction and morale and overall well-being, possibly even to the
18 point of reducing mental health problems among employees.

19 16. Flexible work arrangements also benefit businesses at minimal cost. Implementing
20 workplace flexibility helps businesses attract and retain key talent, increase employee retention and
21 reduce turnover, reduce overtime needs, reduce absenteeism, and enhance employee productivity,
22 effectiveness, and engagement. Further, according to the President's Council of Economic Advisors,
23 as more businesses adopt flexibility practices, the benefits to society, in the form of reduced traffic,
24 improved employment outcomes, and more efficient allocation of employees to employers, may even be
25 greater than the gains to individual businesses and employees.

1
2 **SEC.12Z.3. DEFINITIONS.**

3 For purposes of this Chapter, the following definitions apply.

4 "Agency" means the Office of Labor Standards Enforcement or any successor department or
5 office.

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

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

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

11 (3) A parent age 65 or over of the Caregiver.

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

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

15 "Director" means the Director of the Office of Labor Standards Enforcement or his or her
16 designee.

17 "Employee" means any person who is employed within the geographic boundaries of the City
18 by an Employer, including part-time employees. "Employee" includes a participant in a Welfare-to-
19 Work Program when the participant is engaged in work activity that would be considered
20 "employment" under the federal Fair Labor Standards Act, 29 U.S.C. §201 et seq., and any applicable
21 U.S. Department of Labor Guidelines. "Welfare-to-Work Program" shall include any public assistance
22 program administered by the Human Services Agency, including but not limited to CalWORKS, and
23 any successor programs that are substantially similar, that require a public assistance applicant or
24 recipient to work in exchange for their grant.
25

1 "Employer" means the City, or any person as defined in Section 18 of the California Labor
2 Code who regularly employs 20 or more Employees, including an agent of that Employer and
3 corporate officers or executives who directly or indirectly or through an agent or any other person,
4 including through the services of a temporary services or staffing agency or similar entity, employ or
5 exercise control over the wages, hours, or working conditions of an Employee. The term "Employer"
6 shall also include any successor in interest of an Employer. The term "Employer" shall not include the
7 state or federal government or any local government entity other than the City.

8 "Family Relationship" means a relationship in which a Caregiver is related by blood, legal
9 custody, marriage, or domestic partnerships, as defined in San Francisco Administrative Code Chapter
10 62 or California Family Code Section 297, to another person as a spouse, domestic partner, child,
11 parent, sibling, grandchild or grandparent.

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

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

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

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

25 (1) Inpatient care in a hospital, hospice, or residential health care facility.

1 (2) Continuing treatment or continuing supervision by a health care provider.

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

5
6 **SEC. 12Z.4. RIGHT TO REQUEST FLEXIBLE OR PREDICTABLE WORKING**
7 **ARRANGEMENT.**

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

15 (1) The number of hours the Employee is required to work;

16 (2) The times when the Employee is required to work;

17 (3) Where the Employee is required to work;

18 (4) Work assignments or other factors; or

19 (5) Predictability in a Work Schedule.

20 (b) Any request submitted to the Employer under this Section shall be in writing and
21 specify the arrangement applied for, the date on which the Employee requests that the arrangement
22 becomes effective, and the duration of the arrangement, and explain how the request is related to
23 caregiving.

24 (c) An Employer may require verification of caregiving responsibilities as part of the
25 request.

1 (d) An Employee may make the initial request verbally, after which the Employer shall,
2 either in writing or verbally, refer the Employee to the posting required by Section 12Z.8 and instruct
3 the Employee to prepare a written request under subsection (b).

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

7
8 **SEC. 12Z.5. RESPONSE TO REQUEST FOR FLEXIBLE OR PREDICTABLE WORKING**
9 **ARRANGEMENT.**

10 (a) An Employer to whom an Employee submits a request under Section 12Z.4 must meet
11 with an Employee requesting a Flexible or Predictable Working Arrangement within 21 days of the
12 request.

13 (b) An Employer must consider and respond to an Employee's request for a Flexible or
14 Predictable Working Arrangement in writing within 21 days of the meeting required in subsection (a).
15 The deadline in this Section may be extended by agreement with the Employee confirmed in writing.

16 (c) An Employer may grant or deny a request for Flexible or Predictable Working
17 Arrangement. An Employer who grants the request shall confirm the arrangement in writing to the
18 Employee. An Employer who denies a request must explain the denial in a written response that sets
19 out a bona fide business reason for the denial, notifies the Employee of the right to request
20 reconsideration by the Employer under Section 12Z.6, and includes a copy of the text of that Section.
21 Bona fide business reasons may include but are not limited to, the following:

22 (1) The identifiable cost of the change in a term or condition of employment requested
23 in the application, including but not limited to the cost of productivity loss, retraining or hiring
24 Employees, or transferring Employees from one facility to another facility.

25 (2) Detrimental effect on ability to meet customer or client demands.

1 (3) Inability to organize work among other Employees.

2 (4) Insufficiency of work to be performed during the time the Employee proposes to
3 work.

4 (d) Either an Employer or an Employee may revoke an applicable Flexible or Predictable
5 Working Arrangement with 14 days written notice to the other party; if either party so revokes, the
6 Employee may submit a request for a different Flexible or Predictable Working Arrangement and the
7 Employer must respond to that request as set forth in Sections 12Z.5 and 12Z.6. Each time an
8 Employer revokes a Flexible or Predictable Working Arrangement, an Employee may make an
9 additional request than the allowable number per year under Section 12Z.4(e).

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

14
15 **SEC. 12Z.6. REQUEST FOR RECONSIDERATION BY EMPLOYEE FROM THE**
16 **DENIAL OF REQUEST FOR FLEXIBLE OR PREDICTABLE WORKING ARRANGEMENT.**

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

20 (b) If an Employee submits a request for reconsideration under this Section, the Employer
21 must arrange a meeting to discuss this request to take place within 21 days after receiving the notice of
22 the request.

23 (c) The Employer must inform the Employee of the Employer's final decision in writing
24 within 21 days after the meeting to discuss the request for reconsideration. If the request for
25

1 reconsideration is denied, this notice must explain the Employer's bona fide business reasons for the
2 denial.

3
4 **SEC. 12Z.7. EXERCISE OF RIGHTS AND CAREGIVER STATUS PROTECTED;**
5 **RETALIATION PROHIBITED.**

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

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

12 (1) the right to request a Flexible or Predictable Working Arrangement under this
13 Chapter;

14 (2) the right to request reconsideration of the denial of a request for a Flexible or
15 Predictable Working Arrangement under this Chapter;

16 (3) the right to file a complaint with the Agency alleging a violation of any provision of
17 this Chapter;

18 (4) the right to inform any person about an Employer's alleged violation of this
19 Chapter;

20 (5) the right to cooperate with the Agency or other persons in the investigation or
21 prosecution of any alleged violation of this Chapter;

22 (6) the right to oppose any policy, practice, or act that is unlawful under this Chapter;

23 or

24 (7) the right to inform any person of his or her rights under this Chapter.
25

1 **SEC. 12Z.8. NOTICE AND POSTING REQUIREMENTS FOR EMPLOYERS.**

2 (a) The Agency shall, by the operative date of this Chapter, publish and make available to
3 Employers, in all languages spoken by more than 5% of the San Francisco workforce, a notice suitable
4 for posting by Employers in the workplace informing Employees of their rights under this Chapter. The
5 Agency shall update this notice on December 1 of any year in which there is a change in the languages
6 spoken by more than 5% of the San Francisco workforce. In its discretion, the Agency may combine the
7 notice required herein with the notice required by Section 12R.5(a) and/or 12W.5(a) of the
8 Administrative Code or any other Agency notice that Employers are required to post in the workplace.

9 (b) Every Employer shall post in a conspicuous place at any workplace or job site where any
10 Employee works the notice required by subsection (a). Every Employer shall post this notice in English,
11 Spanish, Chinese, and any language spoken by at least 5% of the Employees at the workplace or job
12 site.

13
14 **SEC. 12Z.9. EMPLOYER RECORDS.**

15 Employers shall retain documentation required under this Chapter for a period of three years
16 from the date of the request for a Flexible or Predictable Working Arrangement, and shall allow the
17 Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor
18 compliance with the requirements of this Chapter. When an issue arises as to an alleged violation of an
19 Employee's rights under this Chapter, if the Employer has failed to maintain or retain documentation
20 required under this Chapter, or does not allow the Agency reasonable access to such records, it shall
21 be presumed that the Employer has violated this Chapter, absent clear and convincing evidence
22 otherwise.

23
24 **SEC. 12Z.10. IMPLEMENTATION AND ENFORCEMENT.**

25 (a) Administrative Enforcement.

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

10 (2) Where the Agency determines that a violation has occurred, it may issue a
11 determination and order any appropriate relief, provided, however, that during the first twelve months
12 following the operative date of this Chapter, the Agency must issue warnings and notices to correct.
13 Thereafter, the Agency may impose an administrative penalty up to \$50.00 requiring the Employer to
14 pay to each Employee or person whose rights under this Chapter were violated for each day or portion
15 thereof that the violation occurred or continued.

16 (3) Where prompt compliance is not forthcoming, the Agency may take any
17 appropriate enforcement action to secure compliance, including initiating a civil action pursuant to
18 Section 12Z.10(b). In order to compensate the City for the costs of investigating and remedying the
19 violation, the Agency may also order the violating Employer or person to pay to the City a sum of not
20 more than \$50.00 for each day or portion thereof and for each Employee or person as to whom the
21 violation occurred or continued. Such funds shall be allocated to the Agency and used to offset the
22 costs of implementing and enforcing this Chapter.

23 (4) An Employee or other person may report to the Agency any suspected violation
24 of this Chapter, but if an Employee is reporting a violation pertaining to that Employee's own request
25 for Flexible or Predictable Working Arrangement, that Employee must first have submitted a request

1 for reconsideration to the Employer under Section 12Z.6. The Agency shall encourage reporting
2 pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable
3 laws, the name and other identifying information of the Employee or person reporting the violation;
4 provided, however, that with the authorization of such person, the Agency may disclose his or her name
5 and identifying information as necessary to enforce this Chapter or for other appropriate purposes.
6 The filing of a report of a suspected violation by an Employee does not create any right of appeal to the
7 Agency by the Employee; based on its sole discretion, the Agency may decide whether to investigate or
8 pursue a violation of this Chapter.

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

12 (A) providing the Employer with notice that it may have violated this Chapter;

13 (B) providing the Employer with a right to respond to the notice;

14 (C) providing the Employer with notice of the Agency's determination of a
15 violation; and

16 (D) providing the Employer with an opportunity to appeal the Agency's
17 determination to a hearing officer, not employed by the Agency, who is appointed by the City
18 Controller or his or her designee.

19 (6) If there is no appeal of the Agency's determination of a violation, that determination
20 shall constitute the City's final decision. An Employer's failure to appeal the Agency's determination
21 of a violation shall constitute a failure to exhaust administrative remedies, which shall serve as a
22 complete defense to any petition or claim brought by the Employer against the City regarding the
23 Agency's determination of a violation.

24 (7) If there is an appeal of the Agency's determination of a violation, the hearing before
25 the hearing officer shall be conducted in a manner that satisfies the requirements of due process. In any

1 such hearing, the Agency's determination of a violation shall be considered prima facie evidence of a
2 violation, and the Employer shall have the burden of proving, by a preponderance of the evidence, that
3 the Agency's determination of a violation is incorrect. The hearing officer's decision of the appeal
4 shall constitute the City's final decision. The sole means of review of the City's final decision, rendered
5 by the hearing officer, shall be by filing in the San Francisco Superior Court a petition for writ of
6 mandate under Section 1094.5 of the California Code of Civil Procedure. The Agency shall notify the
7 Employer of this right of review after issuance of the City's final decision by the hearing officer.

8 (b) Civil Enforcement. The City may bring a civil action in a court of competent jurisdiction
9 against the Employer or other person violating this Chapter and, upon prevailing, shall be entitled to
10 such legal or equitable relief as may be appropriate to remedy the violation including, but not limited
11 to: reinstatement; back pay; the payment of benefits or pay unlawfully withheld; the payment of an
12 additional sum as liquidated damages in the amount of \$50.00 to each Employee or person whose
13 rights under this Chapter were violated for each day such violation continued or was permitted to
14 continue; appropriate injunctive relief; and, further, shall be awarded reasonable attorneys' fees and
15 costs.

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

19 (d) Remedies Cumulative. The remedies, penalties, and procedures provided under this
20 Chapter are cumulative.

21
22 **SEC. 12Z.11. EXEMPTION OF CERTAIN JOB CLASSIFICATIONS PERTAINING TO**
23 **PUBLIC HEALTH AND PUBLIC SAFETY.**

24 (a) An appointing officer may request an exemption from this Chapter from the Director of
25 Human Resources for certain classifications of City employees working in public health or public

1 safety functions, based upon operational requirements according to criteria developed by the Director
2 of Human Resources. Such criteria shall promote efficiency and advance public safety or public
3 health.

4 (b) The Agency, in consultation with the Director of Human Resources, may exempt non-
5 City Employees working in public safety or public health functions, upon request of those non-City
6 Employers, based upon operational requirements according to criteria developed by the Agency and
7 the Director of Human Resources. Such criteria shall promote efficiency and advance public safety or
8 public health.

9
10 **SEC. 12Z.12. WAIVER THROUGH COLLECTIVE BARGAINING.**

11 All and any portions of the applicable requirements of this Chapter shall not apply to
12 Employees covered by a bona fide collective bargaining agreement to the extent that such requirements
13 are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

14
15 **SEC. 12Z.13. OTHER LEGAL REQUIREMENTS.**

16 This Chapter provides minimum employment requirements pertaining to Caregivers and
17 Employees and shall not be construed to preempt, limit, or otherwise affect the applicability of any
18 other law, regulation, requirement, policy, or standard, or provision of a collective bargaining
19 agreement, that provides for greater or other rights of or protections for Caregivers or Employees, or
20 that extends other rights or protections to Employees.

21
22 **SEC. 12Z.14. RULEMAKING AUTHORITY.**

23 The Director shall have authority to issue regulations or develop guidelines that implement
24 provisions of this Chapter. Notwithstanding the definition of "Director" in this Chapter, a designee of
25

1 the Director shall not have authority under the foregoing sentence of this Section; but a designee of the
2 Director shall have authority to conduct hearings leading to the adoption of regulations or guidelines.
3

4 **SEC. 12Z.15. OUTREACH.**

5 The Department on the Status of Women and the Office of Labor Standards
6 Enforcement shall jointly create an outreach and community engagement program to educate
7 Employees and Employers about their rights and obligations under this Chapter. This
8 outreach program shall include media, trainings and materials accessible to the diversity of
9 Employees and Employers in San Francisco.
10

11 **SEC. ~~12Z.15~~ 12Z.16. PREEMPTION.**

12 Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power,
13 or duty in conflict with federal or state law.
14

15 **SEC. ~~12Z.16~~ 12Z.17. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL**
16 **WELFARE.**

17 In enacting and implementing this Chapter, the City is assuming an undertaking only to
18 promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees,
19 an obligation for breach of which it is liable in money damages to any person who claims that such
20 breach proximately caused injury. This Chapter does not create a legally enforceable right against the
21 City.
22

23 **SEC. ~~12Z.17~~ 12Z.18. SEVERABILITY.**

24 If any of the parts or provisions of this Chapter (including sections, subsections, sentences,
25 clauses, phrases, words, numbers) or the application thereof to any person or circumstance is held

1 invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this
2 Chapter, including the application of such part or provisions to persons or circumstances other than
3 those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect.
4 To this end, the provisions of this Chapter are severable.
5

6 Section 3. Effective and Operative Dates.

7 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
8 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
9 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
10 Supervisors overrides the Mayor's veto of the ordinance.

11 (b) Operative Date. This ordinance shall become operative on January 1, 2014 and
12 shall have prospective effect only.
13

14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: 

17 JON GIVNER
18 Deputy City Attorney

19 n:\Vegana\as2013\1300455\00874780.doc
20
21
22
23
24
25

REVISED LEGISLATIVE DIGEST

(9/23/2013, Amended in Committee)

[Administrative Code - Family Friendly Workplace Ordinance]

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; prohibit adverse employment actions based on caregiver status; prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; require employers to post a notice informing employees of their rights under the Ordinance; require employers to maintain records regarding compliance with the Ordinance; authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

Existing Law

Existing ordinances address certain employee rights and protections; for example, the Minimum Wage Ordinance (Administrative Code Chapter 12R), Paid Sick Leave Ordinance (Administrative Code Chapter 12W), and Health Care Security Ordinance (Administrative Code Chapter 14). But no ordinance addresses flexible or predictable working arrangements. California and federal laws require some employers to grant leave to an employee to care for children, or for parents, spouses, or children with serious health conditions, but are limited to employers with 50 or more employees, require employment of at least a year before leave may be taken, provide a 12 week annual maximum for the leave, and do not include requirements for other flexible working arrangements. See Cal. Gov't Code Section 12945.2 (California Family Rights Act) and 29 U.S.C. Sections 2601-2619 (Family and Medical Leave Act).

Amendments to Current Law

The proposed ordinance would apply to Employees—persons who are employed in San Francisco—by an Employer that employs 20 or more Employees. An Employee may request a flexible or predictable working arrangement to assist the Employee in carrying out caregiving responsibilities pertaining to a person in a family relationship with the Employee. An Employee must be employed for at least 6 months before requesting a flexible or predictable working arrangement. A person in a family relationship with an Employee is defined as someone who is a spouse, domestic partner, child, parent, sibling, grandchild or grandparent. Employees may request modified work schedules, changes in start and/or end

times for work, part-time employment, job sharing arrangements, working from home, telecommuting, reduction or change in work duties, or part-year employment.

An Employer who receives a request for a flexible or predictable working arrangement may deny the request based on a bona fide business reason. A bona fide business reason may include, but is not limited to, identifiable cost of the arrangement, detrimental effect on the Employer's ability to meet customer or client demands, inability to organize work among other Employees, or insufficiency of work to be performed during the time the Employee proposes to work.

The ordinance would establish a process through which the Employee receives the Employer's response and may submit a request for reconsideration to the Employer. During the process, the Employer must supply written reasons for denial of the request.

The ordinance would protect Employees from interference with their rights under the ordinance, and would make it unlawful for an Employer to take adverse employment action against a person because he or she is a Caregiver, or in retaliation for an Employee exercising his or her rights under the ordinance.

Employers must post a notice at the workplace informing Employees of their rights under the ordinance. Employers must also create and maintain certain records required by the ordinance to document requests by Employees for a flexible or predictable working arrangement, and the response to those requests.

The City's Office of Labor Standards Enforcement ("OLSE") is designated as the agency to implement and enforce the ordinance. OLSE may investigate certain aspects of compliance with the ordinance, make a determination that the ordinance has been violated, and award appropriate relief. 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 for a flexible or predictable working arrangement. Instead, OLSE's review is limited to consideration of an Employer's adherence to procedural, posting and documentation requirements, as well as the validity of any claims regarding Caregiver status discrimination or retaliation for exercising rights provided by the ordinance. During calendar year 2014, OLSE may issue warnings and notices to Employers. Thereafter, OLSE may assess penalties for certain types of violation. The Employer or other violator may appeal OLSE's determination to a neutral hearing officer. The City may also bring a civil action to enforce the ordinance. There is no private right of action under the Ordinance.

The Director of OLSE has authority to issue regulations or develop guidelines to implement the ordinance. The Director also must establish rules governing the administrative process for determining and appealing violations of the ordinance.

All or any portion of the ordinance may be expressly waived in a collective bargaining agreement.

The Director of Human Resources may exempt from the ordinance certain classifications of City employees working in public health or public safety functions. OLSE, in consultation with

the Director of Human Resources, may exempt non-City Employees in public health or public safety functions.

The Ordinance would require the Department on the Status of Women and the Office of Labor Standards Enforcement jointly to create an outreach and community engagement program to educate Employees and Employers about their respective rights and obligations.

Background Information

On September 23, 2013, the Land Use Committee amended the proposed ordinance to require the Department on the Status of Women and the Office of Labor Standards Enforcement to create an outreach and community engagement program.

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BOARD of SUPERVISORS



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

September 6, 2013

File No. 130785

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On July 30, 2013, Supervisor Chiu introduced the following proposed legislation:

File No. 130785

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; to prohibit adverse employment actions based on caregiver status; to prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; to require employers to post a notice informing employees of their rights under the Ordinance; to require employers to maintain records regarding compliance with the Ordinance; to authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; to authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Alisa Miller".

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

*Not a Project per CEQA
Guidelines Section 15060 (c)(2)
Maurice R. Farrell
September 6, 2013*

Family-Friendly Workplace Ordinance: Economic Impact Report

Office of Economic Analysis

July 10th, 2013

Item #130622



Background

- The legislation was introduced on June 11, 2013.
- On July 2, the OEA was provided with an amended version of the legislation, which formed the basis of an OEA presentation at the Small Business Commission on July 8th.
- On July 10th, the OEA was provided with a second amended version of the legislation. This report is based on our analysis of the second amended version.



Overview of the Legislation

- The legislation allows a qualified employee to request a flexible or predictable working arrangement from a covered employer.
- A qualified employee is anyone responsible for the care of a child, someone with a serious medical condition, or a parent over 65, who has worked for their employer for over six months and works 8 or more hours per week. Temporary workers are included, but may only make requests to employers for whom they have worked for more than six months.
- An employer must consider at least two requests that are made within a 12-month period, or three if the employee experiences a major life event.
- A covered employer is any private employer in San Francisco with 20 or more employees, and the City and County of San Francisco.
- The City's Human Resources Director has the ability to exclude certain public safety and public health occupations from qualification.
- Approximately 8% of private employers in San Francisco are covered by this legislation. They employ 76% of private sector employees in the city.
- Under both a predictable and flexible work arrangement, a qualified employee may request any change to his or her hours, timing, location, work assignment, or any other term or condition of their employment that assists with their care.



Request and Reconsideration Process

- The initial request must be made in writing by the employee. It must provide details of the desired arrangement, how the employee believes the change will affect the employer, and how any such effect may be dealt with.
- If the request is made orally, the employer must notify the employee of the requirement for a written request.
- The employer may deny the request for a *good-faith business reason*, such as cost, a detrimental impact on customers, or insufficient work.
- If the request is denied, the employer must explain in writing the reason for the denial.
- A denied employee has the right to request a reconsideration from the employer. If this request is made, a meeting must be held and the employer must again state its basis for denial in writing.



Enforcement Process

- The City's Office of Labor Standards Enforcement (OLSE) is directed to establish rules, investigate potential violations, and impose penalties pursuant to the proposed legislation.
- OLSE may not find a violation on the basis of the good-faith business reason for which an employer denies a request. OLSE may find a violation if an employer fails to comply with noticing requirements, or violates an employee's rights.
- As is the case with other City policies, appeals against OLSE's determinations are made by a Controller-appointed hearing officer, and the burden of proof is on the employer.



Economic Impacts of Flexible Working Arrangements

- Voluntary working arrangements to maintain work-life balances are increasingly common, and are credited with increasing employee loyalty and productivity, reducing turnover and re-training costs, and reducing family expenditures on outside care providers.
- Legislation broadly similar to this proposal has been adopted in other jurisdictions, including recently in the U.S. state of Vermont.
- In the United Kingdom, the right-to-request originally applied to parents, but the Conservative-led coalition has recently introduce plans to extend it to all employees.
- By permitting employers to deny the request for a valid business reason, the legislation effectively insulates employers, and the broader city economy, from any negative impacts beyond minimal administrative costs.
- Indeed, the "nudge effect" of offering a right-to-request to all qualified employees will likely lead to greater realization of the benefits of flexible working arrangements, across the San Francisco workforce, at little if any additional cost.
- It is therefore highly likely that the economic benefits of this legislation will exceed its costs, under a reasonable valuation of costs and benefits.



Staff Contacts

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Asim Khan, Ph.D., Principal Economist
(415) 554-5369

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*File No. 130785
9/23/13 Presented in Committee*

Family-Friendly Workplace Ordinance

Land Use & Economic
Development Committee
September 23, 2013

1950s Family

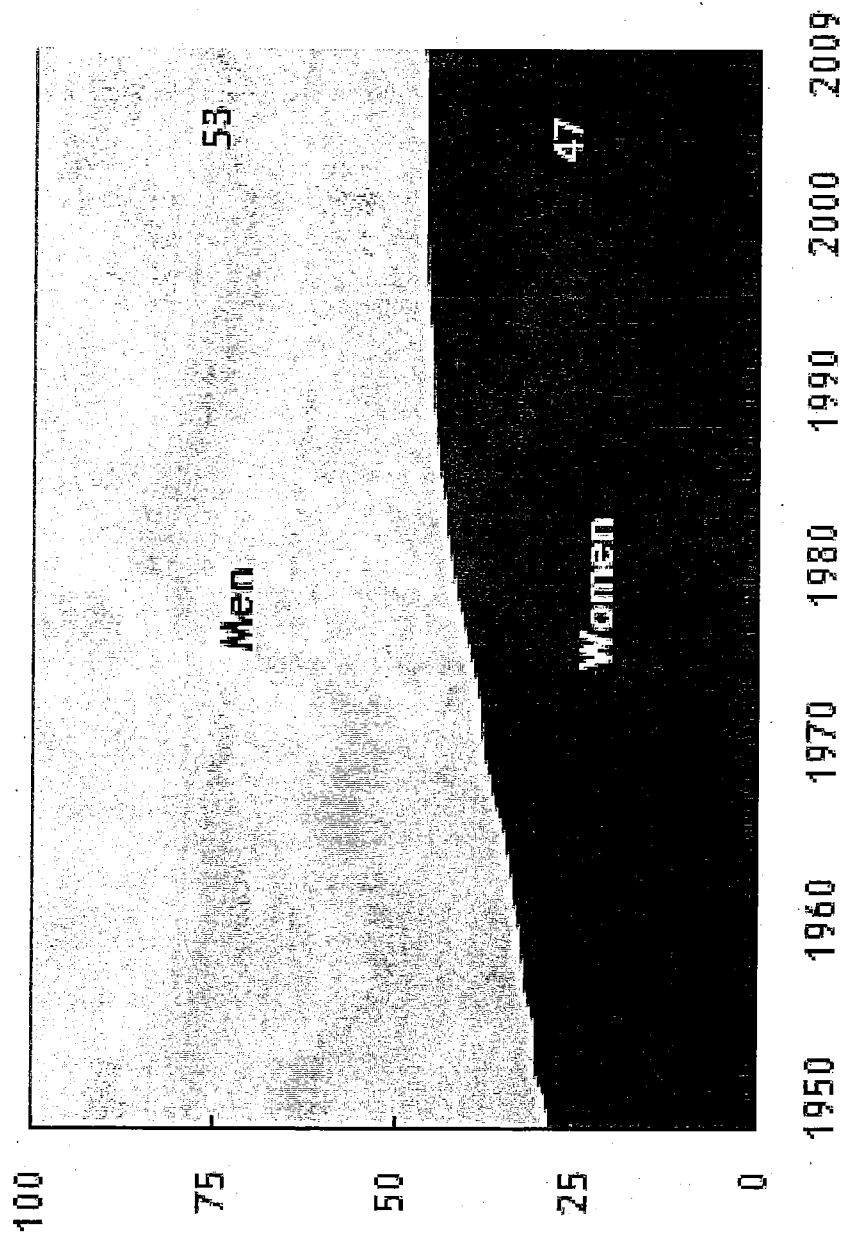


1970s Family



Distribution of the U.S. Labor Force by Gender, 1948-2009

(%)

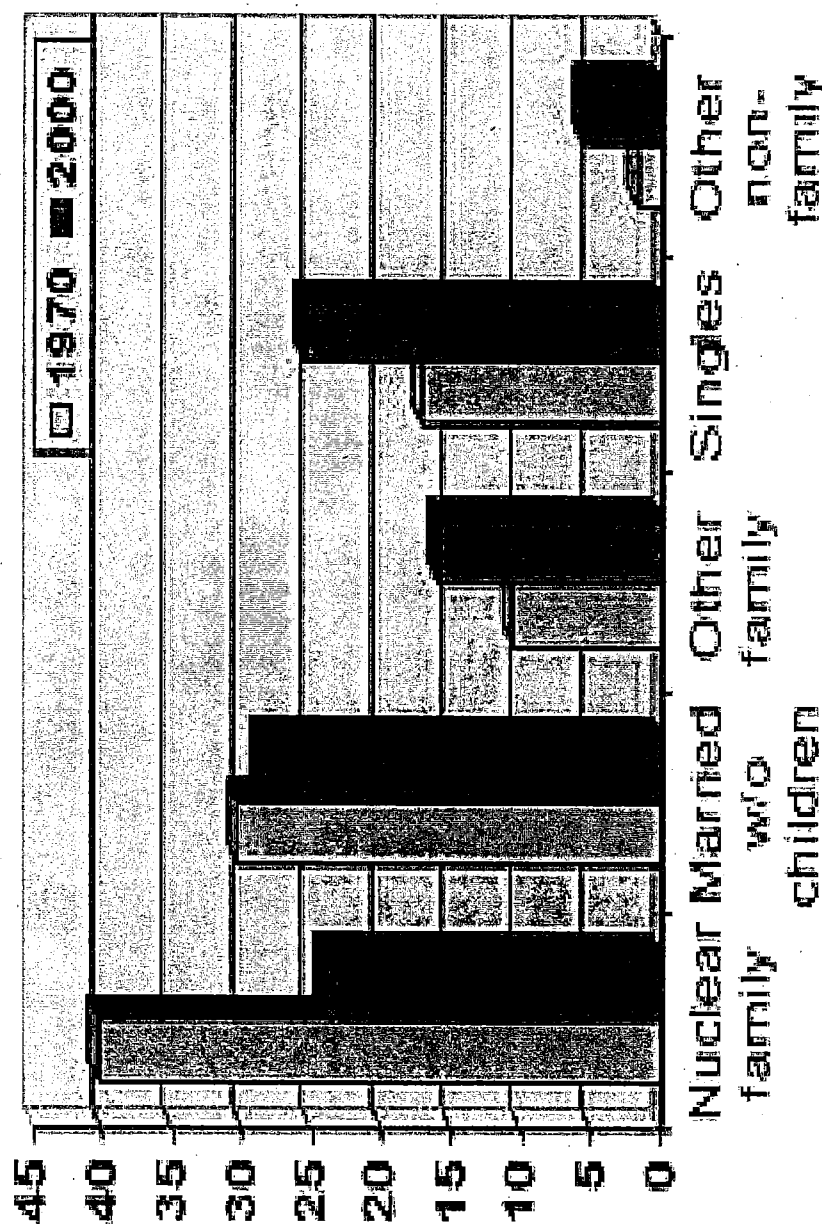


Note: Estimates reflect annual averages.

Source: Bureau of Labor Statistics (Current Population Survey data)

Power Research, Inc. 09/11/09

Families: 1970 - 2000



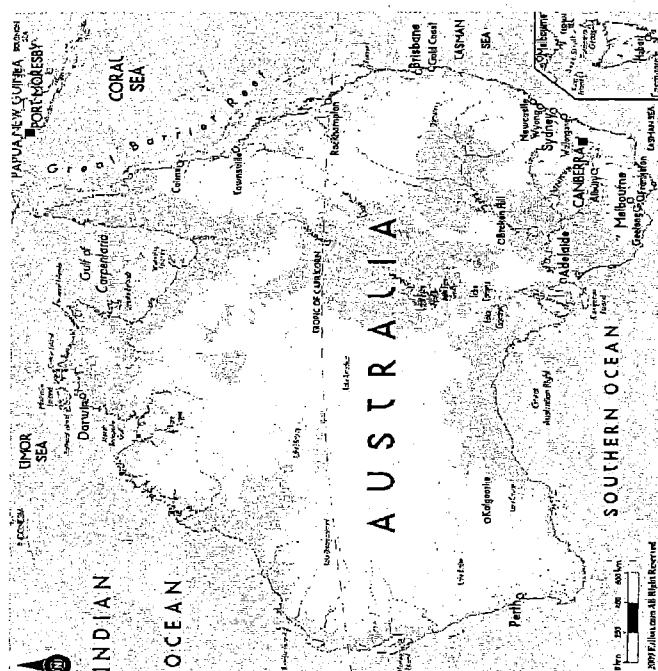
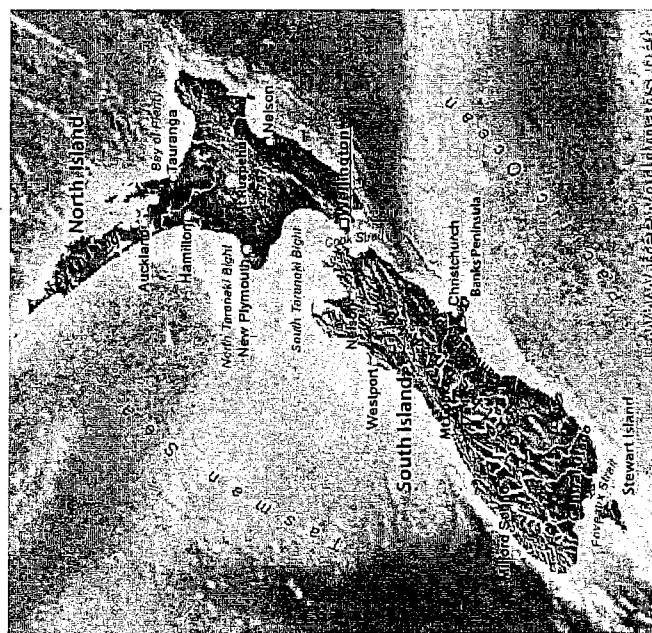
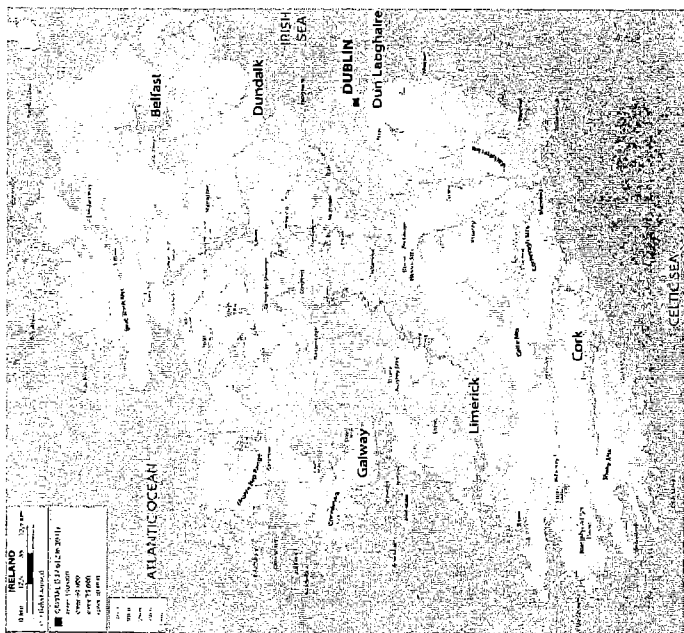
American family structure has no particular household arrangement being prevalent enough to be identified as the average. [46]

2013 Employee/Caregiver

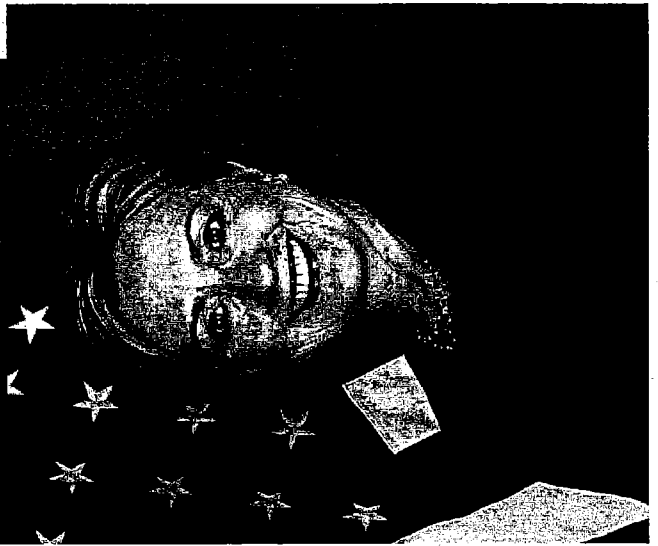


“Right to Request”

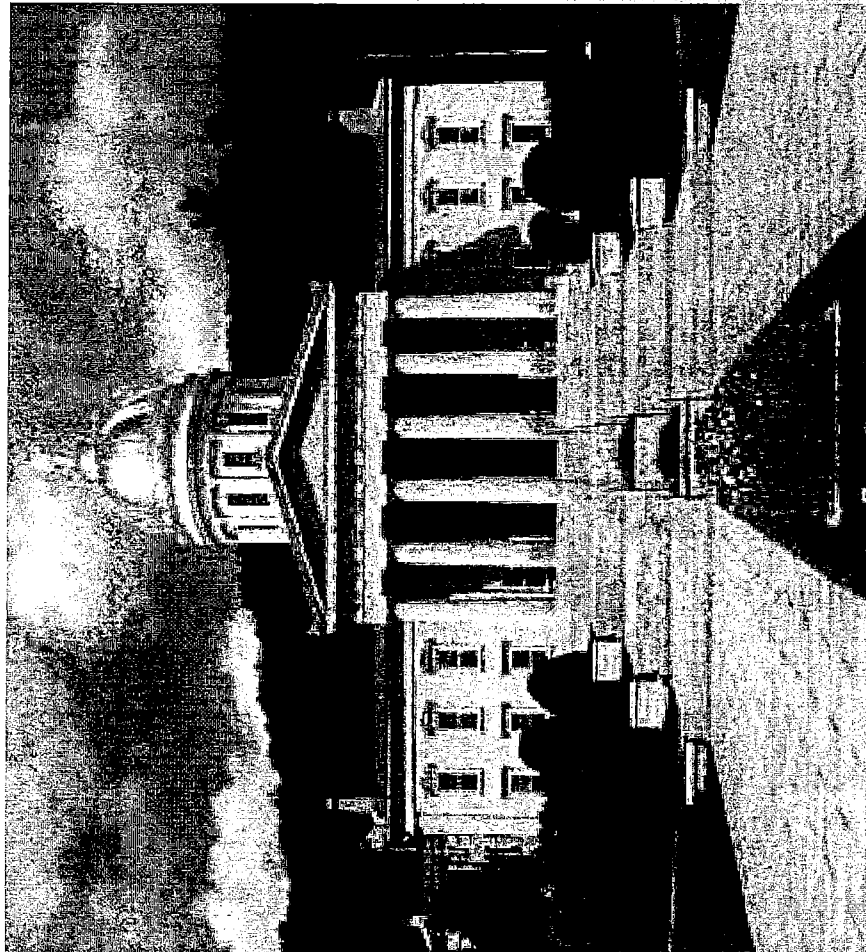
- Provide Employees with Right to Request Flexible Working Arrangement
 - Create safe space for conversation & negotiation
 - Flexible Working Arrangement – change shift, part-time, part-year, job share, telecommute
- 3 simple steps:
 - (1) Employee Request
 - (2) Employer Grant or Denial
 - (3) Meeting



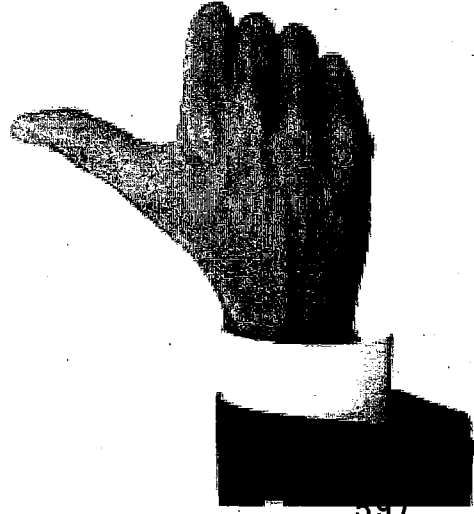
RTR Supporters: US Senators



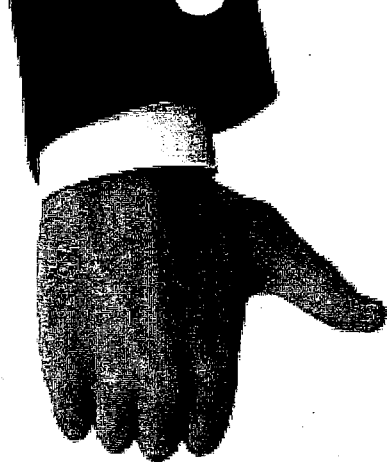
Vermont Beat Us



Good For Business, Good for Employers



Up: satisfaction, loyalty, productivity



Down: absenteeism, turnover

Studies Show Positive Bottom Line Impact

- \$6.9B year due caregiving absenteeism (2006)
- \$6.5B due to caregiving turnover (2006)
- 29M full-time workers are unpaid family caregivers (2009)
- Lack of flexibility for parents -> \$469 - \$1,984 in yearly costs/employee due to less productivity & more absenteeism (2010)

SF Economic Impact Report (Prop I)

“It is therefore highly likely that the economic benefits of the legislation will exceed its costs, under a reasonable valuation of costs and benefits.”

--Office of Economic Analysis, July 10, 2013

Legislation: Who's Eligible

- Physically employed within SF
- SF Employer with 20+ employees
 - HCSO standard: About 4,000 businesses
- 8 hours of work/week
- Limited to 2 requests/year, unless Major Life Event (new child, family illness)

Legislation: Providing Caregiving Need



Legislation: Employee Request

- Number of hours
- Time required to work
- Location of work
- Work assignments
- Predictability in work schedule

Legislation: Employer Decision

- Accept or deny
- Denial based on bona fide business reason:
 - Identifiable cost of the change
 - Can't meet client/customer demand
 - Other employees can't handle work
 - Not enough work during proposed time
- Meeting & Request for Reconsideration
- No employer retaliation or discrimination

Legislation: OLSE Enforcement

- OLSE can investigate complaints; no right of employee appeal
- OLSE review limited to procedural violations, retaliation, discrimination
- \$50/day administrative penalties for violations, enforcement costs

Legislation: Amendments

- Thanks to feedback thus far:
 - Predictability
 - Appeals, OLSE review, standards for denial
 - Limit 20 employees; 8 hours; 2 requests
 - Elder care, sick family members
 - Ballot Measure to Ordinance
 - Joint OLSE / DOSW Outreach and Education

“Employers Doing It Already...”

- Appreciate SF employers already offering
- Level playing field
- Disconnect between employers & employees
- Flexibility stigma, bias, intimidation
- Nudge changes in workplace culture

Thanks!

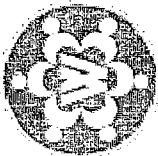
- Supervisors Cohen, Mar, Campos, Yee & Breed
- Catherine Rauschuber
- Working family & children advocates
- Feedback from business community
- City Economist, DOSW, OSB, OLSE, DHR



FAMILY FRIENDLY WORKPLACE ORDINANCE

1

ANN LEHMAN
WOMEN'S HUMAN RIGHTS
SPECIALIST



San Francisco CEDAW

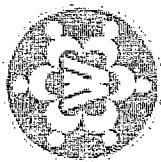


2

The City shall encourage and, where possible fund, ... [polices and programs] to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies and work-life balance.

SECTION 12K.3. LOCAL PRINCIPLES OF CEDAW:
(1998)



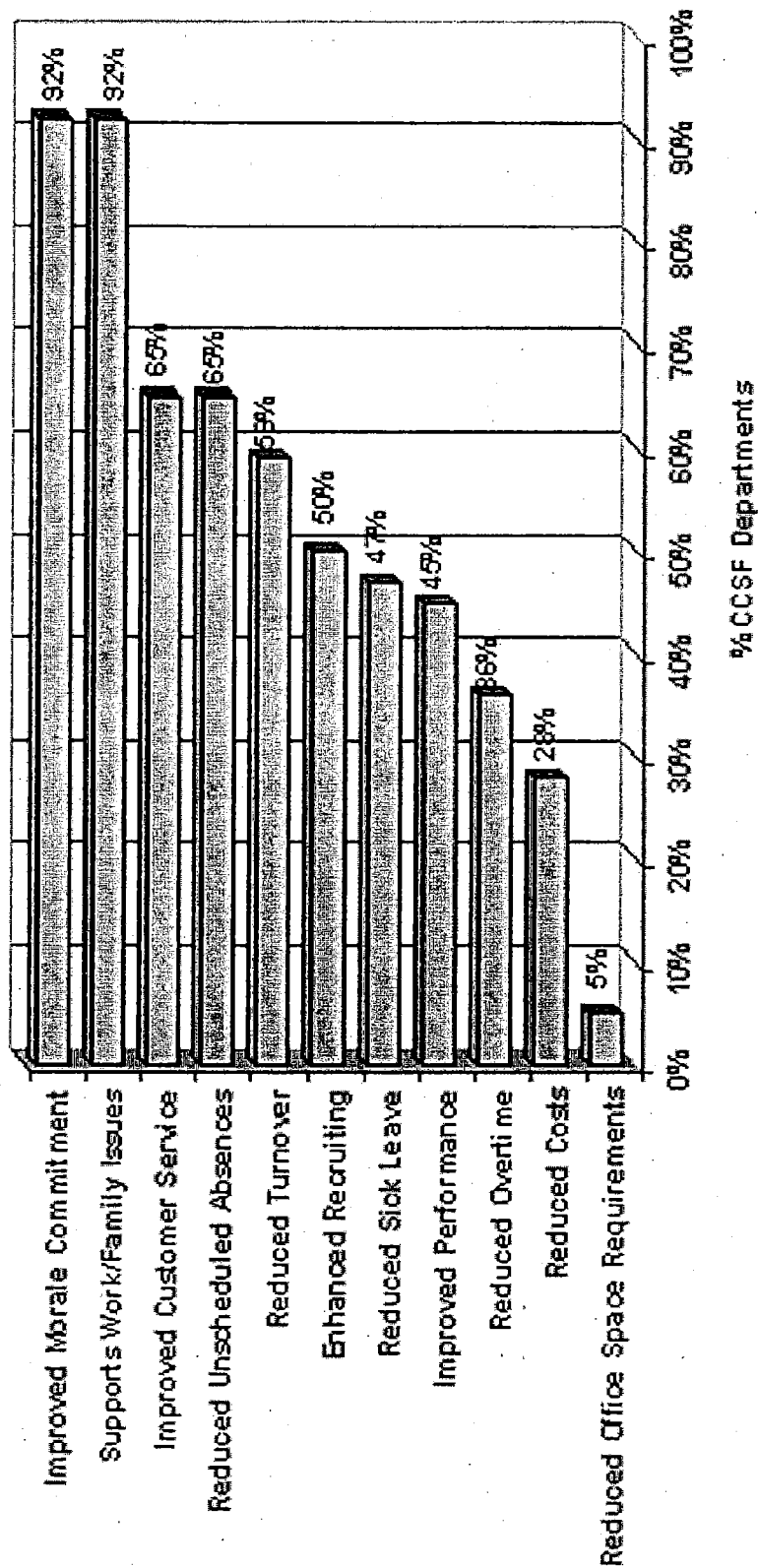


Work-Life Policies & Practices Survey Report 2001



3

Benefits of Compressed and Flexible Schedules



Ann Lehman and Jennifer Mitchell, San Francisco Department on the Status of Women.
"Work-Life Policies and Practices Survey Report" : 2001.

San Francisco Department on the Status of Women



Flexibility for Professional & Shift Workers

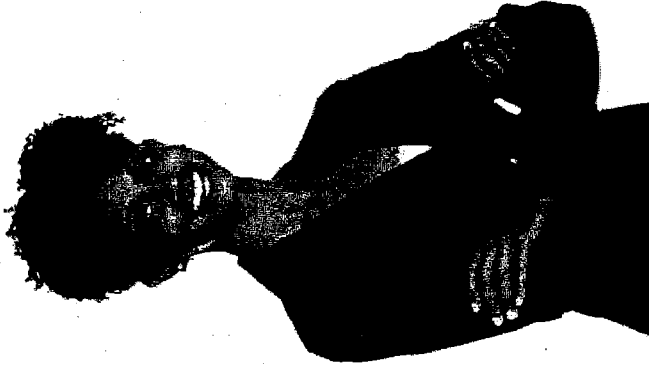


4

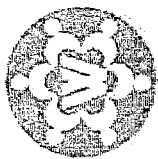


gender
equality
principles

A tool for promoting equality in your workplace



- Harvard Business Review reports that the average American professional works 72 hours/week (2013)
- Hasting's Center for WorkLife Law reports that nearly a third of hourly workers have elder care responsibilities (2010)



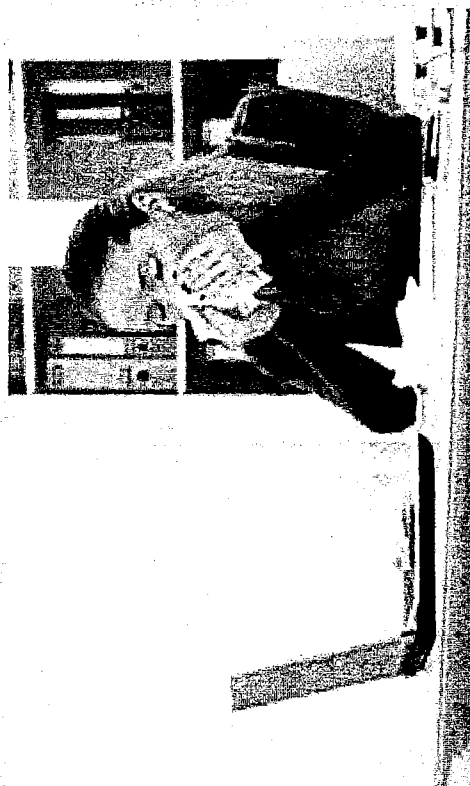
Business Case for Workplace Flexibility



5

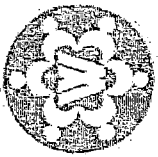
- Enhances recruitment
- Improves employee performance and productivity
- Increases retention and reduces turnover
- Results in better customer coverage and higher levels of customer satisfaction

- Increases cost savings and profits, provides high return on investment
- Reduces absenteeism and presenteeism



The Sloan Center on Aging and Work. "Schedule Flexibility in the workplace: The Business Case for Workplace Flexibility". 2013.

San Francisco Department on the Status of Women



Better for Profits, Better for Workers



6

- Best Buy “employees can do whatever they want, when they want, where ever, as long as work gets done.” This Results-Only Work Environment (ROWE) resulted in reduced turnover by 46%.

- Clayman Institute, Stanford University

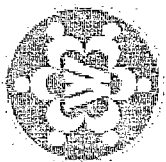
- Cisco claimed saving of \$195 million on a telecommuting program (2003).

- *Work-Life Balance and the Economics of Workplace Flexibility (2010 White House)*

- Fortune 500 companies found that on average, firms’ stock prices rose 0.36% on the days following announcements of work-life balance initiatives.

- *Work-Life Balance and the Economics of Workplace Flexibility (2010 White House)*



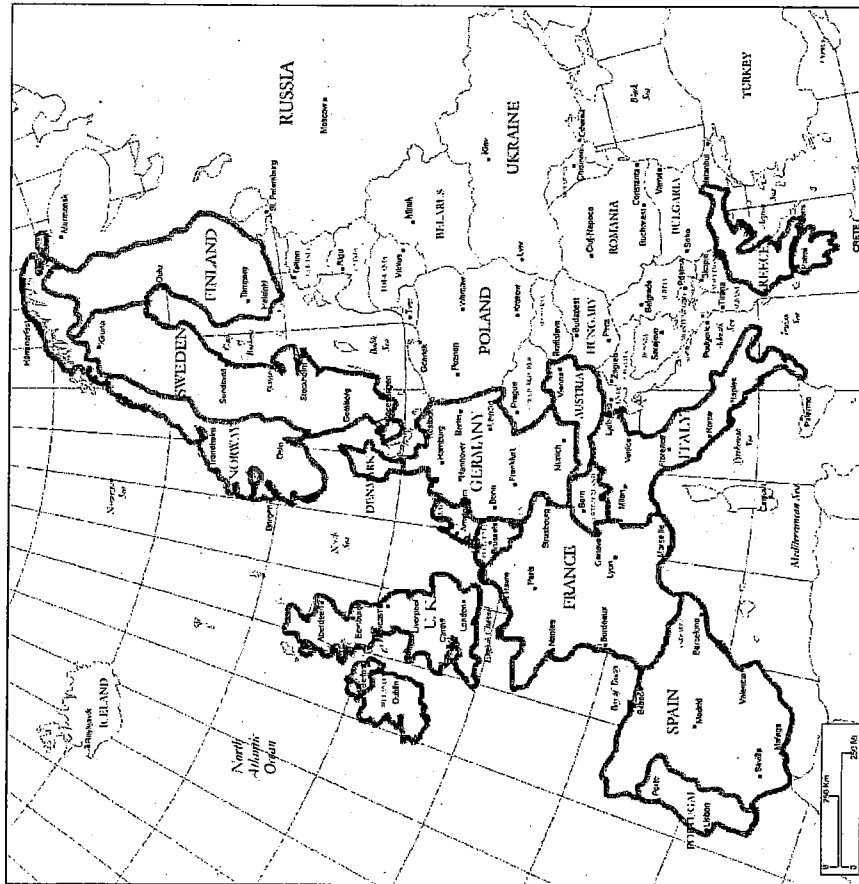


Lessons Learned from Other Countries



7

EUROPE



Produced by the Geographic Research Lab
University of Alabama

- Broadly positive impact (just over half of those requesting flexibility are women)
- Most requests are accepted
- Costs have not been an issue
- Only a few requests are appealed (and those are primarily based on a manager's negative gut response that "it can't be done")
- Encourages employees to put forward new flexible arrangements and most are accepted
- Requires education

Institute for Women's Policy Research. Statutory Routes to Workplace Flexibility in Cross-National Perspective (2008).



9/23/13 Received in Committee

September 23, 2013

Curtis Chan, MD, MPH. Medical Director of Maternal, Child & Adolescent Health, SFDPH. curtis.chan@sfdph.org

Dear Board of Supervisors on the Land Use and Economic Development Committee:

This information summarizes potential health outcomes of the Family Friendly Work Ordinance. In short, the ordinance would likely improve the physical, mental, and emotional health of women and the healthy development of infants.

Who this would affect?

- 9000 births to San Francisco women each year. (Birth Data, 2011)
- 2/3 of these women are employed.
- In SF, 39% of births live within household incomes of less than 200% of FPL. 28% of births are to Medicaid recipients.
- Most women return to work within several weeks, so having an opportunity to request flexible hours affects many women:
 - In a study of employed recent mothers in California (Guendelman, Maternal Child Health J, 2013)
 - No maternity leave is offered to 29% of women
 - 28% were offered leave up to 6 weeks
 - 33% were offered 6-12 weeks
 - 10% were offered leave beyond 12 weeks.

What is the Effect on Health?

- Family Friendly Work Ordinance directly affects 3 of the 4 employment conditions that have been shown to improve would improve maternal health: flexible hours, job autonomy, job security, and paid leave. (Cooklin, Arch Womens Ment Health, 2011)
- Many women experience: Approximately 10-20% of women in the United States, experience postpartum depression. Women who are Medicaid recipients, have double the rates. (CDC, 2011)

Disproportionate Effect? On Women with Low-Income and Lower Job Classifications

- Parental leave and flexible hours are disproportionately available to those in "full-time, high-status, well-remunerated occupations or those in the public sector.
- Since this policy has been introduced by Supervisor Chiu, many doctors and nurses have expressed their strong support. From my 13 years of practicing medicine and pediatrics in San Francisco, I have seen the disparities of parental leave and job flexibility. Some parents who visited my UCSF pediatrics clinic were within the 10% who were given job-protected leave beyond 12 weeks. But many women (in low-moderate wage jobs and women with less seniority) were among the 57% who weren't allowed to be on leave beyond 6 weeks.
- All women should have the opportunity to choose to return to work. Some 6-week old babies and their mothers are just absolutely thriving and might not need more time together. But, there are many critical health and social circumstances in which infants would be best cared for by a parent. From a population-wide perspective, workplace policies that separate many mothers from their 6 week old baby for 8+ hours every workday are not healthy for the baby, mother, and future of San Francisco.

A Family Friendly Work Ordinance helps form an equal starting line for babies and mothers, regardless of class and position. This would help level the playing field for improved health across San Francisco.

Employment conditions and maternal postpartum mental health: results from the Longitudinal Study of Australian Children

Amanda R. Cooklin · Louise Canterford ·
Lyndall Strazdins · Jan M. Nicholson

Received: 15 June 2010 / Accepted: 2 November 2010 / Published online: 30 November 2010
© Springer-Verlag 2010

Abstract Maternal postpartum mental health is influenced by a broad range of risk and protective factors including social circumstances. Forty percent of Australian women resume employment in the first year postpartum, yet poor quality employment (without security, control, flexibility or leave) has not been investigated as a potential social determinant of maternal psychological distress. This paper examines whether poor quality jobs are associated with an increased risk of maternal postpartum psychological distress. Data were collected from employed mothers of infants ≤ 12 months ($n=1,300$) participating in the Longitudinal Study of Australian Children. Logistic regression analyses estimated the association between job quality and maternal psychological distress, adjusting for prior depression, social support, quality of partner relationship, adverse life events and sociodemographic characteristics. Only 21% of women reported access to all four optimal job conditions. After adjustment for known risk factors for poor maternal mood, mothers were significantly more likely to report psychological distress (adjusted OR=1.39, 95% CI 1.09, 1.77) with each reduction in the number of optimal employment conditions. Interventions for maternal post-

partum affective disorders are unlikely to be successful if major risk factors are not addressed. These results provide strong evidence that employment conditions are associated with maternal postpartum mood, and warrant consideration in psychosocial risk assessments and interventions.

Keywords Maternal · Postpartum mental health · Employment · Job quality · Maternity leave

Introduction

Maternal mental health and psychological wellbeing in the postpartum period is governed by a range of factors. Established risk factors include a poor quality intimate relationship, concurrent adverse life events and inadequate social support (Boyce and Hickey 2005; Scottish Intercollegiate Guidelines Network 2002; Milgrom et al. 2008; Rubertsson et al. 2005). More recent evidence also points to the importance of social and family circumstances such as lower socioeconomic position (Kermode et al. 2000; Rubertsson et al. 2005). Indeed, results from one study show that the influence of structural factors on depressive symptomatology in women following childbirth outweighs that of established, individually based characteristics (Chen et al. 2005). However, very few studies have explored what aspects of women's broader social circumstances are important after childbirth, nor has there been a detailed investigation of the role played by the conditions of employment, despite an increasing proportion of mothers returning to work postpartum. This paper therefore provides new evidence on the relationship between access to family-friendly and supportive employment conditions and maternal mental health in the postpartum period.

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Employment conditions are key social-structural determinants of employed adult's health and wellbeing, especially their mental health (Stansfield and Candy 2006). While job participation is generally regarded as benefiting mental health by increasing social support and financial resources (Lee and Powers 2002), the degree of benefit may be closely dependent on the quality of the job. Epidemiological studies of Australian employees confirm an association between adverse employment conditions, poor job quality and greater psychological distress including depression and anxiety symptoms (Bryson and Warner-Smith 1998; Broom et al. 2006; Cheng et al. 2006; Strazdins et al. 2007).

Like women in most developed economies, Australian women's childbearing occurs in the context of employment participation. Eighty-percent are employed when pregnant with their first child, and 40% resume employment in the first year following childbirth (Baxter 2005; Australian Bureau of Statistics 2006; Whitehouse et al. 2008), the majority on a part-time basis (Australian Bureau of Statistics 2006). Thus, the impact of employment in the postpartum period is relevant to a large number of Australian mothers.

The postpartum is a time of unique, rapid psychological adjustment, and the psychological sequelae of employment participation at this particular life stage are not well understood. It is plausible that postpartum employment may enhance or protect women's wellbeing by improving financial resources, access to social support and an enhanced sense of personal competence (Stansfield and Candy 2006; Stansfield et al. 2008). Alternatively, employment may place women at risk of poor psychosocial wellbeing if their work conditions are poor or generate conflict with their family responsibilities.

The quality of work refers to 'the set of work features which foster the wellbeing of the worker' (Green 2006), and this includes conditions and benefits such as paid leave, security, and control over tasks and work times. Good quality jobs are those with an array of positive conditions, in contrast to jobs without them. Although job quality may be assessed against a variety of criteria, those that provide employees with time-related support and those that promote well-being can arguably be considered as family friendly (Strazdins et al. 2007). Supportive, family-friendly conditions may make a profound difference to employed mothers' experience, helping them care for their infant when care requirements can be unpredictable and intensive. Yet in Australia, as in most developed nations, the quality and conditions of jobs are not uniform: they vary widely by sector and by occupation (Goos and Manning 2007).

Four conditions may be especially critical to employed mothers' mental health in the postpartum period. *Flexible work hours* and *paid family leave* are aspects of jobs conventionally labelled as family friendly (Whitehouse and

Zetlin 1999; Gray and Hughes 2005; Strazdins et al. 2007). Both conditions enable employed mothers to fit their work with their infant's schedules and needs, reducing time-related conflict and work-family strain (Estes 2004). In Australia, legislation provides all eligible women with 52 weeks unpaid parental leave, and all employees with the right to ask for flexible work hours (*Commonwealth Workplace Relations Act, 1996*). Access to paid parental leave, however, has only recently been legislated. Thus, for most mothers (including those in our study), responsibility for providing these conditions rests with the individual employer, or within company policies and industrial agreements, and is vulnerable to discretionary application (Burgess and Strachan 2005). As a consequence, paid parental leave and flexible hours have been disproportionately available to those in full-time, high-status, well-remunerated occupations or those employed in the public sector (Gray and Tudball 2002; Baird and Litwin 2005; Burgess and Strachan 2005). An estimated two-thirds of Australian women do not have access to paid parental leave following the birth of an infant (Australian Bureau of Statistics 2006), and recent evidence suggests that nearly half (45%) resume employment sooner than they would like following the birth of an infant (Whitehouse et al. 2008).

While paid parental leave and flexible hours are likely to ease women's return to paid work after childbirth, the relationship between these characteristics and women's psychological functioning in the postpartum has received little research attention. One recent Australian study found that adverse employment conditions in pregnancy, including a lack of access to paid and unpaid parental leave, were associated with measurably more depressive symptoms, heightened anxiety, and more fatigue and irritability (Cooklin et al. 2007). Furthermore, international evidence has identified several employment characteristics associated with heightened postpartum depressive symptoms including inadequate access to parental leave (Hyde et al. 1995, 2001) and inflexible employment hours (Klein et al. 1998), but these findings need to be confirmed in the Australian policy context.

Epidemiological evidence investigating adult mental health underscores the importance of two other employment characteristics: job insecurity and low job control. *Job insecurity* refers to the perceived probability and impact of losing one's job (Ferrie 2001). It is broader than job loss itself because it also reflects anticipatory fears and uncertainty about job futures, fears which have increased with the growth in global outsourcing and contingent jobs in many developed economies (OECD 2007). *Job control* stems from the way work is organised and managed, and to some extent reflects a balance of power in the employment relationship; high-status, highly skilled employees are much more likely to have choice in what they do and how they do

it (Karasek 1979). For mothers, this may mean they can tailor their workload and commitments to better fit with family schedules and needs. Both job insecurity and low job control show associations with adult mental health comparable to major stressors such as adverse life events and relationship disruption, generating an increased risk for developing depression and anxiety in adults (Bosma et al. 1997; Ferrie 2001; Cole et al. 2002). Again, the association between these factors and the mental health of mothers returning to work in the postpartum period has not been examined.

The current study addresses these research gaps using data on a large representative cohort of employed mothers from the Longitudinal Study of Australian Children (Gray and Sanson 2005; Soloff et al. 2005). Specifically, it examines the quality of jobs available to mothers in terms of their access to four employment conditions and entitlements (paid leave, flexible hours, job autonomy and job security). Our aim is to test whether the quality of mothers' jobs, adjusting for known determinants and potential confounders, explains additional, independent variance in mothers' mental health during the first postpartum year.

Methods

Sample

Data for this study were drawn from the first wave of *Growing Up in Australia, the Longitudinal Study of Australian Children* (LSAC). LSAC is a nationally representative, ongoing study of children's growth and development in the early years. LSAC was initiated by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, and approved by the Australian Institute of Family Studies Ethics Committee (Gray and Sanson 2005; Soloff et al. 2005).

The sampling design and field methods have been described elsewhere (Soloff et al. 2005). Briefly, LSAC used a two-stage cluster sampling design, with Australian postcodes as the primary sampling units (stratified by state of residence and urban versus rural status) and infants (born between March 2003 and February 2004) enrolled in the Medicare Australia database as the secondary sampling units. Some very remote postcodes were excluded, as were families for whom a post office box but no street addresses were recorded.

Of the contactable infants selected and residing in the sampled postcode, 5,107 took part in LSAC (64% response rate). This sample was broadly representative of all Australian infants, although infants with more highly educated parents were over-represented (by 10%), while single-parent, non-English-speaking families and those living in rental properties

were slightly under-represented (Soloff et al. 2005). Data collection for the first wave of LSAC occurred in 2004 and was conducted via face-to-face interview and a self-report questionnaire by the parent who knew the child best (98.6% were the child's mother) (Department of Family and Community Services 2004; Soloff et al. 2005). All participants provided written consent prior to their participation in the study.

Inclusion and exclusion criteria

The sample for the current analysis included mothers with an infant aged 12 months or less who were employed (including self-employed) at the time of data collection, either on a full-time (≥ 35 h per week), part-time (< 35 h per week) or casual basis (variable hours), and who had complete data on all of the study variables. Mothers who were employed but still on parental leave at the time of data collection were excluded because they could not be considered to have resumed their jobs postnatally. Those with children older than 12 months at the time of data collection were excluded.

Measures

Sociodemographic information

Maternal age in years, country of birth (Australia/New Zealand versus other), marital status (married versus de facto or not partnered), main language spoken at home (English versus other) and employment status (part time/variable work hours, versus full time) were collected via maternal interview.

Maternal mental health

The primary outcome was maternal mental health, assessed using the Kessler-6 (K6), a validated six-item screening tool designed to identify probable mood and anxiety disorders (Kessler et al. 2003). Items assessed the physical, cognitive, emotional and behavioural dimensions of psychological distress and are suitable for use with the general adult population. The K6 has been used in several national surveys (Furukawa et al. 2003) due to its brevity, strong psychometric properties and ability to identify serious mood and anxiety disorders against DSM-IV criteria (American Psychiatric Association 1994). Responses to the six items (five-point rating scale) are summed to give a total score of between 0 and 24, with higher scores indicating greater psychological distress. A cut-point score of ≥ 13 indicates probable clinical diagnosis with high specificity (0.96) and robust total classification accuracy (0.92) (Kessler et al. 2003). In this, as in other Australian studies (Martin et al.

2007; Strazdins et al. 2007), a lower threshold of ≥ 8 was used to identify not only those with a probable clinical diagnosis but also those with significant psychological distress, including symptoms of depression and anxiety.

Employment characteristics and conditions

Employment characteristics were assessed using the Job Quality Index for Parents (JQIP) (Strazdins et al. 2007), a summary measure of available employment conditions and arrangements designed to ameliorate the difficulties of combining employment and parenting. The JQIP is based on four components of employment: job control ('I have a lot of freedom to decide how I do my own work'), perceived job security ('How secure do you feel in your present job?'), the availability of flexible start and finishing times, and the provision of family-related leave including paid maternity, parental, personal and/or family leave. The presence of each condition is classified as a binary variable ('available' versus 'neutral/not available'), and the total number of favourable conditions available is summed and used as a continuous measure in analyses (possible range 0–4).

Established risk factors for maternal psychological symptoms

In order to adjust for known risk factors for maternal psychological distress, information about women's prior mental health history was assessed using a binary item indicating the presence of self-reported depression for two or more years in the past (probable chronic depression). Exposure to an unhappy intimate partner relationship was assessed using a single item from the Dyadic Adjustment Scale (Spanier 1976). The seven-point ratings were dichotomised into 'very happy partner relationship' (ratings of 5–7; 'very happy' to 'perfectly happy') versus 'other' (ratings of 1–4; 'extremely unhappy' to 'happy'). Women not in a relationship were regarded as having no exposure to the risk factor of a poor relationship. A study-specific item assessing the adequacy of available social support required participants to rate their feelings about support and help from family and friends (none/not enough help versus enough help/no help needed). Participants also indicated their exposure to adverse life events in the past year from a list of 13 items (e.g. marital breakdown, serious illness or death of friend or relative), which were summed and dichotomised (less than three versus three or more).

Potential confounders

Information was collected about several factors which may potentially confound the relationship between employment characteristics and maternal mental health. A continuous,

summary measure of family socioeconomic position (SEP) has been derived and validated in the LSAC sample based on income, occupational status and highest level of educational attainment of both parents (or one parent for single-parent households) (Blakemore et al. 2009), with higher scores indicating a higher socioeconomic position relative to other families. Families with a standardised SEP score at or below the 25th percentile were classified as 'low' SEP, those above the 75th percentile were classified as 'high' SEP and the remainder were classified as 'medium' SEP, as recommended in the development study of this measure. Household type (two-parent versus single-mother household) and number of children in the household (one versus two versus three or more) were collected. The age of the study child at interview was recorded in months. The average number of hours of maternal employment per week and the hours that the infant spent in non-parental childcare were recorded (none, >0 and <20 , or ≥ 20 h per week). The type of non-parental childcare that mothers used (if any) was classified as 'formal' (centre-based day care, occasional care, nanny/babysitter) or 'informal' (relative, non-resident parent, friend, other), or 'both' (formal and informal care).

Statistical analysis

Mother and family characteristics were summarised for the sample using appropriate summary statistics. Comparison between included women and those excluded due to missing data were conducted using chi-square or *t* tests on sociodemographic variables. Logistic regression was performed to investigate the unadjusted association between the number of favourable job conditions (JQIP) on maternal mental health (K6), with results presented as odd ratios with 95% confidence intervals. Additional bivariate analyses were performed to investigate the relationship between prior depression and job quality (*t* test). Association between the childcare characteristics (number of hours, type of childcare) and maternal mental health was also investigated (chi square).

Logistic regression was performed to investigate the adjusted association between the number of favourable job conditions (JQIP) on maternal mental health (K6). Established risk factors (prior depression, quality of partner relationship, social support and adverse life events) and potential confounders (socioeconomic position, single-mother household, number of children in the household, age of infant, hours of employment per week and number of hours of infants' non-parental care) were controlled for in the adjusted analysis.

The use of the JQIP as a continuous measure was tested by including a quadratic term in the regressions. An interaction between maternal employment hours and JQIP was tested in adjusted analysis.

A sensitivity analysis confirmed that the bivariate relationship between SEP and maternal mental health was similar irrespective of whether SEP was categorised as three groups or as quintiles.

Logistic regression analyses were weighted for non-response and account for unequal probabilities of selection into the sample. First-order Taylor linearization was used to obtain estimates of standard error taking account of the multi-stage, clustered sampling design. Analyses were conducted using Stata 11.0 (Statacorp, College Station, TX, USA, 2009).

Results

Sample characteristics

Participants were employed mothers of infants aged 12 months or less. Of the total LSAC infant cohort at Wave 1 ($n=5,107$), 98.6% ($n=5,033$) were female primary caregivers (mothers). Of these, 92.5% ($n=4,656$) had an infant aged 12 months or less, and 38.5% ($n=1,790$) of these had resumed employment. The final sample for this analysis was 1,300 employed mothers who had complete data for all variables, collected at a mean infant age of 8.8 months.

Characteristics of the study sample are presented in Table 1. Twenty-seven percent of eligible women were excluded from the analyses because of missing data ($n=490$, 27.4%). This was mostly due to the location of items within the LSAC data collection instruments. Some job quality items and all mental health items were in the self-complete questionnaire, which was completed by 85% of cohort participants at Wave 1. Multiple imputation was not performed for these 15% of cases because missing items were from both the main predictor (JQIP) and the primary study outcome (K6). Women excluded due to missing data were slightly younger than those included (mean age 31.0 versus 31.7 years, $p=0.004$), but the mean age of their children was similar (8.8 versus 8.6 months, $p=0.13$). Comparable proportions had no other children in the home (40% versus 45%, $p=0.06$) and were Australian/New Zealand born (84% versus 85%, $p=0.6$). Compared to included women, those who were excluded were less likely to be married (71% versus 82%, $p<0.001$), to reside in a two-parent household (91% versus 97%, $p<0.001$), to speak English as the main language at home (87% versus 91%, $p=0.008$) and to be in the highest 25th percentile of socioeconomic position (20% versus 35%, $p<0.001$).

The majority of this sample of employed mothers had been employed while pregnant with the study child (90%, $n=1,165$), and most (76%) had resumed employment on a part-time basis (<35 h per week). By 3 months postpartum, 28% of the mothers had resumed employment, 37% returned

Table 1 Characteristics of the sample ($n=1,300$)

Characteristic	<i>n</i>	%
Age (mean), years	31.7	4.6
Born in Australia/New Zealand	1,104	84.9
Married	1,060	81.5
English as the main language spoken at home	1,183	91.0
Part time (or variable work hours)	993	76.4
High level of psychological distress ^a	122	9.4
Number of favourable job conditions ^b		
0	18	1.4
1	78	6.0
2	321	24.7
3	607	46.7
4	276	21.2
Prior history of depression (for 2 years or more)	154	11.9
Unhappy in partner relationship	223	17.2
Inadequate social support from family/friends	253	19.5
Three or more stressful life events in the past 12 months	143	11.0
Socioeconomic position		
Low	129	9.9
Medium	721	55.5
High	450	34.6
Single-mother household	38	2.9
Number of children in the household		
One	588	45.2
Two	477	36.7
Three or more	235	18.1
Age of child, mean (SD), months	8.8	2.1
Hours (per week) mother works, mean (SD)	19.5	13.2
Hours (per week) in non-parental childcare		
0	474	36.5
>0 and <20	465	35.8
≥20	361	27.8
Type of non-parental childcare used		
None	474	36.5
Informal care only	382	29.4
Formal care only	331	25.4
Both formal and informal care	113	8.7

^a K6 score 8–24

^b Job conditions include job security, control, flexible start/finish times and access to paid family-related leave

when their infant between 3 and 6 months postpartum, and 35% returned when their infant was older than 6 months.

Unadjusted analysis

With each reduction in the number of favourable employment conditions, mothers were significantly more likely to report psychological distress (OR=1.54, 95% CI 1.25,

1.91), indicating strong evidence ($p < 0.001$) of a relationship between number of favourable job conditions and maternal postpartum mental health. There was no evidence for a departure from a linear effect across ordered categories of the JQIP ($p = 0.21$).

Additional analyses revealed that there was no association between the number of hours that the infant spent in non-maternal care and maternal psychological distress ($\chi^2 = 1.71$, $p = 0.43$), nor was there any association between psychological distress and the type of childcare utilised ($\chi^2 = 0.36$, $p = 0.95$). Women reporting prior depression ($n = 154$) had significantly higher mean scores on the JQIP than those without prior depression (1.38 versus 1.17, $p = 0.007$), indicating an association between prior chronic depression and worse job quality in the postpartum.

Adjusted analysis

Table 2 shows odds ratios for the effect of the number of favourable job conditions on maternal mental health, adjusted for known determinants of maternal mental health and potential confounders. After adjustment, mothers remained significantly more likely to report psychological distress (adjusted OR = 1.39, 95% CI 1.09, 1.77) with each reduction in the number of favourable employment conditions (JQIP). There was no evidence for a departure from a linear effect across ordered categories of the JQIP ($p = 0.36$).

As expected, a past history of depression was associated with an increased risk of postpartum psychological distress (adjusted OR = 3.83, 95% CI 2.45, 5.99), as were reporting

an unhappy partner relationship (adjusted OR = 3.61, 95% CI 2.35, 5.54) and inadequate social support (adjusted OR = 3.52, 95% CI 2.32, 5.34). There was no evidence of a relationship between experiencing more than three adverse life events in the past year and higher distress in this sample (adjusted OR = 1.77, 95% CI 0.97, 3.26). Employed mothers with two children in the household were more likely to report distress than mothers with one child (adjusted OR = 1.77, 95% CI 1.07, 2.92), but this effect was not observed for mothers of three or more children.

There were no significant associations observed between postpartum psychological distress and socioeconomic position, being an unpartnered mother, infant age at data collection, the number of hours the infant spent in non-parental childcare or women's average weekly number of hours of employment. There was also no evidence of an interaction between the effects of JQIP and the number of hours of employment per week on the odds of reporting high psychological distress ($p = 0.45$), indicating that the relationship observed between poor job quality and high psychological distress was not altered by the number of employment hours performed each week. There was, however, a significant difference in JQIP scores between those women reporting probable chronic depression and those without prior depression.

Discussion

Prevention and treatment of poorer maternal mood and postpartum psychological distress is unlikely to be effective

Table 2 Relationship between number of favourable job conditions and level of depressive symptoms (Kessler-6), adjusted for potential confounding variables

Variable	High level of depressive symptoms		
	OR ^a	95% CI	p value
Decreasing number favourable job conditions ^{b,c}	1.39	1.09, 1.77	0.008
Depression for 2 or more years	3.83	2.45, 5.99	<0.001
Unhappy in partner relationship	3.61	2.35, 5.54	<0.001
Not enough social support	3.52	2.32, 5.34	<0.001
≥3 stressful life events in past year	1.77	0.97, 3.26	0.06
Socioeconomic position ^d			
Medium	1.31	0.46, 3.71	0.61
High	1.21	0.40, 3.70	0.74
Single-mother household	0.45	0.16, 1.24	0.12
Number of children in the household ^e			
2	1.77	1.07, 2.92	0.03
3 or more	1.33	0.71, 2.49	0.37
Age of child (months)	1.00	0.90, 1.11	0.96
Average hours (per week) mother works	1.01	0.99, 1.03	0.37
Hours (per week) in non-parental childcare ^f			
>0 and <20	1.18	0.70, 2.00	0.54
≥20	1.22	0.66, 2.27	0.53

^a ORs adjusted for all other variables

^b Job conditions include job security, job autonomy, flexible start/finish times and access to paid family-related leave

^c No evidence for departure from linear effect across ordered categories ($p = 0.36$)

^d Compared with low SEP

^e Compared with one child

^f Compared with 0 h in non-parental childcare

unless all risk factors are identified. While many of the social determinants of maternal mental health are well known (Scottish Intercollegiate Guidelines Network 2002; Boyce and Hickey 2005; Rubertsson et al. 2005; Milgrom et al. 2008), the contribution of socio-structural factors to maternal mood is less clear. This study provides new evidence from a contemporary, nationally representative cohort of employed mothers of infants. We find evidence for an additional, independent association between employment conditions (job quality) and maternal mental health after adjustment for known risk factors for poorer maternal mood.

Australian evidence about the contribution of employment participation and conditions to maternal psychological wellbeing in the postpartum period is sparse. This study focused on access to family-friendly employment conditions that aim to relieve some of the difficulty for parents combining employment and parenting, and indicators of job quality including perceived control and security. Access to these arrangements varied within the sample. While nearly half of participants (47%) were able to access three of these employment conditions, one in four women were only able to access two of these conditions and only 20% reported the presence of all four optimal employment conditions. Most of the women in this sample (76%) resumed employment on a part-time basis following birth, and these results are consistent with existing evidence about the concentration of poorer conditions and entitlements in part-time occupations in Australia (Strazdins et al. 2007).

The adjusted analysis found that the odds of reporting psychological distress was significantly higher for women reporting access to fewer of the favourable employment conditions compared to those with access to more of these conditions and entitlements (i.e. mothers with better quality jobs). The persistence of this association after adjustment for established determinants of maternal postpartum mood disorder provides powerful evidence that employment conditions are highly salient to maternal psychological outcomes. In this study, poor job quality was investigated as a risk factor for worse maternal mental health. Our findings suggest that, along with supportive partner and adequate social support, optimal employment conditions are protective against the development of depressive symptoms.

These findings support those of earlier, predominantly American studies that have identified structural factors linked to family-friendly policies associated with better postpartum mental health for women. These conditions include the provision of an adequate period of paid parental leave, reduced working hours, flexibility in scheduling their employment hours, and autonomy and satisfaction within their paid role (Hyde et al. 1995, 2001). Similarly, a recent Australian study of a cohort of employed pregnant women found that women reporting workplace adversity, including

a lack of access to maternity-related entitlements, reported significantly worse psychological distress in pregnancy than women without workplace adversity (Cooklin et al. 2007).

Together, this emerging evidence is suggestive that employment conditions and entitlements are equally relevant to employed women's mental health in the postpartum as they are to both men and women at other stages of the life course. Optimally, job security and control provide employees with financial and career stability, employment satisfaction, a sense of responsibility and validation of their work, and are symptomatic of the trust inherent in an employer-employee relationship. Accordingly, these job characteristics have a known association with better mental health outcomes (Strazdins et al. 2007). Such job characteristics may be even more salient in the postpartum period—a key life transition—than for women at other life stages.

By necessity, women who resume employment following childbirth must secure alternative childcare for their infants and adjust to regular separation from their infants. A lack of access to flexible start and finish times or to family-related paid leave may limit women's capacity to effectively balance their employment with the care of their infant. Thus, the transition back into paid employment is likely to be more distressing if women are unable to organise their paid work day to suit their infant's needs and care arrangements, or when they lack a paid option to take family-related leave should an unexpected need arise.

It is possible that women with poor quality jobs also have limited access to appropriate childcare arrangements and that the associations between job conditions and psychological distress reflect childcare challenges rather than employment conditions per se. In the current analyses, we examined separately the association between psychological distress and childcare characteristics including the number of hours the infant spent in non-parental childcare, and the type of childcare women utilised. This showed that mothers' mental health was not significantly associated with either the type of childcare used or the length of time infants spent in non-parental care, suggesting that childcare factors are unlikely to provide an alternative explanation for the current results.

The current study has some notable strengths. Firstly, it fills a gap in the literature by examining the association between mother's psychosocial distress and a key structural factor, mothers' employment conditions, which has seldom been examined before. Consistent with research conducted with employees at other life-course stages, this research demonstrated that working at a job that is insecure, unstable, demeaning or unsatisfying has adverse psychological sequelae (Bryson and Warner-Smith 1998; Broom et al. 2006; Strazdins et al. 2007). Secondly, it adjusts for a range of known risk factors that are strong predictors of mental health. Other strengths include its large-scale,

nationally representative design and the recency of the data, enabling conclusions to be drawn about mothers' psychosocial wellbeing in the context of contemporary Australian workplaces and workplace policy.

There are several limitations to the current study. First, the observed associations are based on cross-sectional data and causal directions cannot be inferred. Our interpretation does not preclude alternative explanations for the study findings. It may be, for example, that women who are more depressed are more likely to rate their jobs poorly. However, two of the four indices of the JQIP are objective criteria (access to flexible start and finish times and paid family leave) unlikely to be influenced by women's mental health at the time of data collection. We also adjusted for prior or chronic depression which may predate return to work.

Second, it is acknowledged that 'job quality' is a broad construct, and the index of job quality utilised in this study did not account for other means of assessing the quality of employment. Other indices of job quality, for example intensity of workload or opportunities for development, were not available in the LSAC dataset. The relationship of these to maternal postpartum mental health has yet to be described.

Third, we reported a significant association between prior depression and worse postpartum job quality. It is possible that women who suffer from poor mental health including depression may be selected into the worst quality jobs and remain there following birth. This may be an alternative explanation for the relationship reported here between poor employment conditions and psychological distress. Plausibly, there is a compounding, complex interplay between women's mental health and employment conditions and entitlements. Worse mental health might influence the perception, presence or extent of poor job conditions. Similarly, poor conditions might increase depression and anxiety, particularly in the postpartum when women require increased flexibility and access to family-related leave. Longitudinal investigations are needed to describe these relationships further. Our results, however, are consistent with established longitudinal evidence indicating that after adjustment for prior mental health and adversity, poor employment conditions make an independent, additional contribution to adult mental health (Stansfeld et al. 2008).

Finally, the employed mothers of infants included in the present analysis were generally more socioeconomically advantaged than those excluded due to missing data. Those excluded were therefore more likely to be women in the poorest quality jobs, with little or no access to any family-friendly entitlements. As such, these results are plausibly an under- rather than an over-estimate of the relationship between poor postpartum mental health and poor job quality. It is possible, for example, that the effect of poor quality jobs on women's mental health is heightened for women of lower socioeconomic status, where employment adversity might

compound overall poorer access to resources, services and supports generally associated with disadvantage. While these results are drawn from a nationally representative sample, the relevance of these results to women of lower socioeconomic position needs to be confirmed.

The findings from this large, contemporary cohort of childbearing women confirm those of Chen et al. (2005), indicating that adverse structural conditions, in this case, having a poor quality job following childbirth, is associated with maternal psychological distress. This further highlights the importance of assessing social-structural factors when working in clinical settings as these may play an influential role in the exacerbation or continuity of clinical disorders. The results also highlight the possibility for 'upstream' interventions at a policy level to impact on population mental health. While it is known that employment can act protectively against the common mood disorders of depression and anxiety, the current study suggests that this protective relationship is dependent on the provision of high quality employment conditions and entitlements supportive to parents of young children. Thus, social policy initiatives that promote the equitable provision of paid leave and flexible working arrangements have the potential for positively impacting on the mental health and wellbeing of employees, including mothers of young infants who are returning to the paid workforce.

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Work–Family Balance After Childbirth: The Association Between Employer-Offered Leave Characteristics and Maternity Leave Duration

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Abstract Early return to work after childbirth has been increasing among working mothers in the US. We assessed the relationship between access to employer-offered maternity leave (EOML) (both paid and unpaid) and uptake and duration of maternity leave following childbirth in a socio-economically diverse sample of full-time working women. We focus on California, a state that has long provided more generous maternity leave benefits than those offered by federal maternity leave policies through the State Disability Insurance program. The sample included 691 mothers who gave birth in Southern California in 2002–2003. Using weighted logistic regression, we examined the EOML-maternity leave duration relationship, controlling for whether the leave was paid, as well as other occupational, personality and health-related covariates. Compared with mothers who were offered more than 12 weeks of maternity leave, mothers with <6 weeks of

EOML and those offered 6–12 weeks had five times higher odds of returning to work within 12 weeks; those offered no leave had six times higher odds of an early return. These relationships were similar after controlling for whether the leave was paid and after controlling for other occupational and health characteristics. Access to and duration of employer-offered maternity leave significantly determine timing of return to work following childbirth, potentially affecting work–family balance. Policy makers should recognize the pivotal role of employers in offering job security during and after maternity leave and consider widening the eligibility criteria of the Family and Medical Leave Act.

Keywords Maternity leave · Employer offered leave · Paid leave · Financial strain · Work–family policies

Abbreviations

FMLA	Family and Medical Leave Act
SDI	California State Disability Insurance
EOML	Employer offered maternity leave
PTD	Preterm delivery
LBW	Low birth weight
OR	Odds ratio
CI	Confidence interval
PFL	Paid family leave

Introduction

Today, two out of three US women work during pregnancy and most return to work within 12 weeks of childbirth [1]. Women who work full time during pregnancy are most likely to return to work within this timeframe [2]. This length of postpartum leave coincides with the amount of job-protected, *unpaid* leave offered by the federally legislated Family and

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Medical Leave Act (FMLA) [3]. In contrast, the average length of job-protected leave in Europe is 14 months and most women take this amount with income replacement before returning to their pre-birth jobs [4, 5]. Since FMLA applies only to employees who have worked for at least 1,250 h during the year preceding childbirth at companies with 50 or more employees, only about 20 % of new mothers and 50 % of all mothers are covered by FMLA [6, 7]. State laws vary in coverage of government and small-company workers and in the generosity of leave. California is one of five states that offer mothers *paid* pregnancy and maternity leave through temporary disability insurance (State Disability Insurance (SDI) in California) funded through employee contributions. SDI is not job-protected although in many cases leave-takers get additional protections under FMLA or the California Family Rights Act. For mothers covered by these laws, unpaid and paid leave must be taken concurrently.

While some firms voluntarily provide paid time off, higher income and more educated mothers are more likely to obtain job-protected maternity leave and especially paid leave from their employers [5, 7]. Small companies often lack maternity leave policies and pregnant women who want time off have to negotiate leave with little information or support from their employers. Studies further suggest that poor working parents and working welfare recipients are more likely than others to take short leaves due to insufficient savings to cover lost wages, especially if not granted paid leave [7–9]. However, recent Census Bureau findings that mothers who receive paid leave have similar odds of returning to work within 3 months postpartum compared with mothers who receive unpaid leave [2] raise the question whether availability of leave and assurance of continuity of employment are more important determinants of timing of return to work than paid leave. Notably, little is known about the effect of the availability of employer offered maternity leave (EOML)—paid or unpaid—on actual maternity leave duration. Understanding this relationship is crucial as many companies rethink maternity leave benefits and employees struggle to balance work–family needs in a weak economy [10].

This study assesses the relationship between (1) access to and (2) duration of EOML, both paid and unpaid, and postpartum maternity leave duration in a socio-economically diverse sample of full-time working mothers in Southern California. Specifically, we inquired to what extent is access to and duration of EOML associated with returning to work within the first 12 weeks postpartum? Further, among women with EOML, does paid leave modify the relationship between the duration of EOML and the timing of return to work after childbirth? Examining these issues helps to assess how employer policies affect women's work–family decisions and can motivate discussion on modification or development of more generous leave policies. For mothers, an early return to work may help to guarantee access to job

protection, continued health insurance and wages [11]. Nonetheless, a short maternity leave may detract from time available for mothers to care for themselves and their infants. Maternity leaves of up to 12 weeks have been associated with early breastfeeding cessation [12, 13]. Longer leaves beyond 12 weeks may be an effective strategy for improving maternal-infant health [12–17].

Methods

Materials and Methods

Participants were from a nested population-based case-control study, Juggling Work and Life During Pregnancy, designed to examine the relationship between antenatal maternity leave and pregnancy outcomes, and between maternity leave and breastfeeding. The dataset allowed us to cross-sectionally examine the association between EOML and postnatal maternity leave duration. Through weighting cases and controls back to their original distributions in the study population, we obtained population-level estimates. The study population derived from women enrolled in mid-pregnancy (15–20 weeks gestation) in California's Prenatal Screening Program (CPSP) in 3 Southern California counties (Orange, Imperial, and San Diego) and whom we could link to a live birth record. Eligible participants included all women who delivered a preterm (PTD) or low birth weight (LBW) infant (cases) according to birth records registered during July 2002 to August 2003, a random sample of controls (non-PTD/non-LBW) matched on race and month of birth and 504 PTD/LBW cases registered during September to December 2003. Only women who were ≥ 18 years old, had a singleton birth without congenital anomalies, and had a US mailing address were eligible. Potentially eligible participants ($n = 6,700$) were mailed an introductory letter to which no reply was required and of the 2,915 who could be contacted by telephone, all were prescreened to ascertain that they had worked ≥ 20 h per week during the first 2 trimesters of pregnancy or through the date of prenatal testing. Details on sampling, prescreening for work eligibility and 45-min telephone interviews have been described elsewhere [18, 19]. Among eligible working women contacted for study ($n = 1,768$), the response rate was 73 %; a total of 1,214 women completed interviews. Mean and median interview time was 4.5 months after birth.

For the current study, we focused on full-time workers. We excluded part-time workers (< 35 h per week) ($n = 358$), women who quit their jobs or were fired ($n = 62$), women whose infants died or were not living with them ($n = 4$) and women missing key exposure or outcome data ($n = 99$), leaving 691 women for analysis.

During the postpartum interview, participants were queried about work and family stress, demographic and occupational characteristics, including postnatal maternity leave. Bilingual Spanish–English interviewers used computer-assisted telephone interviewing software to enter responses into a database and offered \$10 gift cards to participants in return for a completed interview. The study protocol was approved by the human subjects committees at University of California, Berkeley (No.2003-5-115) and at the California Health and Human Services Agency (No. 02-10-18).

Measures and Data Collection Instruments

The outcome, duration of postpartum maternity leave uptake, was assessed with two questions, “Have you returned to work since you had the baby?” and for mothers who had returned, “When did you return to work?” The outcome was dichotomized into short-average leave (≤ 12 weeks) and longer leave (> 12 weeks) based on policy and health considerations. In California during the study period, women could be eligible for FMLA’s 12-week benefits, for SDI pregnancy-leave benefits which provide 6 weeks of leave with partial wage-replacement after a normal delivery or 8 weeks after a cesarean-section, and/or by employer offered benefits. Maternity leave duration was also treated continuously between 0 and 180 days for selected analyses.

The key exposures were whether women reported that they were offered paid maternity leave and the duration of EOML (paid or unpaid). The latter was examined as a categorical variable (< 6 , 6–12 and > 12 weeks). In sensitivity analysis, duration of EOML was explored as a continuous variable.

Our primary *socio-demographic* variable was unusual financial strain, assessed with the question, “Did you have unusual financial pressures or trouble with money while you were pregnant?” This reference period was chosen since women are normally encouraged to negotiate maternity leave with their employers prior to delivery. Other socio-demographic covariates were educational attainment; maternal age; marital/cohabiting status; race/ethnicity; number of children under age 5; whether enough help with childcare and with instrumental social support was reported. *Occupational* variables included type of occupation; years employed; distress related to job security; whether the employer offered health insurance; lack of health insurance coverage; work attachment; and the perceived imbalance between work effort or demands and rewards in terms of money, esteem and career opportunities derived from Siegrist’s Effort Reward Imbalance scale [20, 21]. Women who reported thinking about work first thing in the morning were determined to have strong work attachment. *Health* variables included whether the delivery was preterm and/or by cesarean section.

Data Analysis

Due to the nested case–control design, we were able to weight all observations by the inverse probability of sampling to obtain unbiased estimates. Analytic weights reflect known sampling probabilities before exclusion of non-workers and non-respondents. χ^2 tests and logistic regression analyses were performed using STATA version 11 (StataCorp, 2009 College Station, TX, USA) to explore associations between EOML (and other covariates) and short-average (≤ 12 weeks) versus longer (> 12 weeks) postpartum leave, and to obtain standard errors and test statistics accounting for the sampling design. Because of the complex sample design, we used a second order Rao–Scott correction, which transforms the Pearson Chi square to an F statistic with approximate degrees of freedom. A P value of ≤ 0.05 was considered statistically significant.

Sixty-four women who had not yet returned to work at the time of interview were censored and included in the longer leave group. Most censored participants were interviewed 10–12 weeks postpartum. Unadjusted and adjusted logistic regression models tested the association between EOML and the dichotomous outcome. The adjusted model controlled for financial strain, cesarean delivery, PTD and work attachment, covariates that were forced in based on literature suggesting that they affect maternity leave duration [22, 23] but which did not change the coefficient on EOML by $> 10\%$. No other variables presented in Table 1 when added to the adjusted models changed the coefficient on EOML by $> 10\%$. In separate regression models, we restricted the analyses to mothers who were offered any leave to examine the joint association of duration of EOML and of paid leave on maternity leave duration. Paid leave was only available to mothers with EOML. We tested for interactions of financial strain with duration of EOML and whether maternity leave was paid, as well as of paid leave with duration of EOML, on maternity leave duration using Wald tests and then used the STATA *lincom* command to estimate odds ratios in a logistic regression model that included cross products. A P value of ≤ 0.10 was considered statistically significant for interaction tests. Interactions were not significant and thus not reported.

Using linear regression, we conducted sensitivity analysis to examine the association between the duration of EOML (in days) and the number of days of leave taken among women who were offered some leave. For censored women, we used the minimum possible number of leave days taken by using their interview date (the last date at which we know they had not yet returned to work). Seven women who reported being offered more than 180 days of leave were excluded from this analysis.

Table 1 Duration of leave offered, financial strain and other socio-demographic, occupational and health characteristics by early (≤ 12 weeks) and later (>12 weeks) return to work after maternity leave

	Total		≤12 weeks postnatal leave		>12 weeks postnatal leave		Weighted P**
	N = 691	Weighted %*	N = 349	Weighted %	N = 342	Weighted %	
		100.00		54.09		45.91	
<i>Characteristics</i>							
Duration of leave offered							
No leave offered	229	28.62	128	31.61	101	25.10	0.0003
<6 weeks	178	28.37	94	29.52	84	27.02	
6–12 weeks	211	33.03	107	35.18	104	30.50	
>12 weeks	73	9.98	20	3.70	53	17.38	
Paid leave***							
Yes	357	77.22	167	76.69	190	77.78	0.84
No	106	22.78	55	23.31	51	22.22	
Financial strain							
Financial strain	150	21.02	96	25.83	54	15.35	0.01
No financial strain	541	78.98	253	74.17	288	84.65	
<i>Socio-demographics</i>							
Education							
High School or less	176	23.87	98	25.50	78	21.95	0.73
Some college	374	56.62	188	55.14	186	58.37	
Post graduate	140	19.51	62	19.36	78	19.69	
Age							
18–24	97	13.73	59	16.83	38	10.08	0.24
25–29	207	28.85	105	29.72	102	27.84	
30–34	281	43.20	132	40.46	149	46.44	
35+	106	14.21	53	12.99	53	15.65	
Marital status							
Unmarried	41	5.73	27	7.35	14	3.82	0.13
Married or cohabiting	650	94.27	322	92.65	328	96.18	
Race							
Latina	246	33.34	147	37.77	99	28.13	0.11
Asian	113	13.02	58	14.00	55	11.87	
Black/other	40	3.78	18	3.57	22	4.02	
White	292	49.86	126	44.66	166	55.98	
Children <5 years							
0	472	64.64	220	60.48	252	69.53	0.08
1+	219	35.36	129	39.52	90	30.47	
Had enough help with childcare							
Had enough help	429	59.94	211	60.69	218	59.06	0.76
Not enough help	261	40.06	137	39.31	124	40.94	
Instrumental social support							
Had enough support	555	82.97	262	79.11	293	87.52	0.03
Not enough support	136	17.03	87	20.89	49	12.48	
<i>Other occupational factors</i>							
Job category							
Manager	346	51.03	171	51.14	175	50.91	0.97
Non-manager	345	48.97	178	48.86	167	49.09	
Effort reward imbalance							
Low effort/high reward	136	21.42	77	23.80	59	18.60	0.06

Table 1 continued

	Total		≤12 weeks postnatal leave		>12 weeks postnatal leave		Weighted <i>P</i> **
	N = 691	Weighted %*	N = 349	Weighted %	N = 342	Weighted %	
High effort/low reward	106	15.97	64	18.96	42	12.42	
Low effort/low reward	233	33.11	103	27.25	130	40.08	
High effort/high reward	205	29.49	100	29.99	105	28.91	
Job tenure							
Up to 1 year	77	11.91	38	12.08	39	11.72	0.92
More than 1 year	603	88.09	304	87.92	299	88.28	
Distress from lack of job security							
Upsetting lack of job security	96	13.85	50	14.25	46	13.39	0.82
Not upsetting or no lack of job security	595	86.15	299	85.75	296	86.61	
Employer offered health insurance							
Employer offered health insurance	520	80.02	256	79.65	264	80.45	0.85
Employer did not offer health insurance	160	19.98	83	20.35	77	19.55	
Work attachment							
Yes	349	49.39	173	46.61	176	52.67	0.26
No	342	50.61	176	53.39	166	47.33	
Health							
Preterm delivery							
Yes	229	5.78	101	5.05	128	6.64	0.26
No	443	94.22	240	94.95	203	93.36	
Cesarean-section							
Yes	181	22.00	89	23.77	92	19.91	0.37
No	543	78.00	278	76.23	265	80.09	

Bolded estimates denote significance at $P \leq 0.05$

* Based on inverse probability of sampling to account for oversampling of cases and frequency matching

** Because of the complex sample design, the Pearson Chi square was transformed to an F statistic with approximate degrees of freedom to find the *P* value

*** Only among women offered maternity leave

Results

All mothers took at least five days off before returning to work and five (<1 %) took 6–7 days off (data not shown). As shown in Table 1, 54 % returned to work within 12 weeks postpartum and 46 % returned after 12 weeks.

Approximately 29 % of mothers were not offered any maternity leave. Women offered more than 12 weeks of maternity leave were more likely to return to work after 12 weeks. Conditional on being offered maternity leave, there was no significant difference in the mean number of weeks of maternity leave duration between those offered pay (mean = 11.2; SD = 4.7) and those not offered pay (mean = 10.2; SD = 3.8) in the bivariate analysis (data not shown). Among mothers with paid leave, 55 % were offered pay through SDI, 37 % through their employer and 8 % had private insurance coverage. One-fifth (21 %) of mothers reported having experienced financial strain during

pregnancy; they were more likely to return to work within 12 weeks compared to mothers without financial strain. A return within 12 weeks was also associated with not having enough instrumental social support. Only mothers with low effort-low reward jobs were more likely to return after a longer maternity leave lasting over 12 weeks. Mothers with effort-reward imbalanced jobs returned earlier (Table 1).

The unadjusted regression model showed that compared with mothers who were offered more than 12 weeks of maternity leave, mothers whose employer offered no leave, offered <6 weeks, or offered 6–12 weeks of leave had higher odds of returning to work within 12 weeks (OR = 5.92, 5.14, 5.43, respectively) (Table 2). After adjusting for whether the mothers experienced unusual financial strain during pregnancy, a cesarean delivery, PTD and work attachment, EOML up to 12 weeks remained significantly related to a return to work within 12 weeks. Relative to EOML of more than 12 weeks, no EOML was

Table 2 Unadjusted and adjusted odds ratios and 95 % confidence intervals (CIs) of return to work by 12 weeks after birth by duration of maternity leave offered, financial strain, preterm delivery, cesarean

section delivery and work attachment among women offered and not offered postpartum maternity leave

	Model 1—unadjusted N = 691 ^a				Wald test	Model 2—adjusted N = 641 ^a				Wald test
	OR	P	95 % CI			OR	P	95 % CI		
Maternity leave offered										
No leave offered	5.92	<0.001	2.42	14.48		5.93	<0.001	2.38	14.81	
<6 weeks offered	5.14	<0.001	2.07	12.73		5.39	<0.001	2.12	13.67	
6–12 weeks offered	5.43	<0.001	2.24	13.14	0.001	5.11	<0.001	2.07	12.61	0.0016
>12 weeks offered	1					1				
Financial strain						1.86	0.03	1.06	3.25	
Preterm delivery						0.70	0.18	0.41	1.19	
C-section						1.28	0.37	0.75	2.17	
Work attachment						0.66	0.07	0.42	1.03	

Bolded estimates denote significance at $P \leq 0.05$ ^a Censored data added**Table 3** Unadjusted and adjusted odds ratios and 95 % confidence intervals (CIs) of return to work by 12 weeks after birth by duration of maternity leave offered, unpaid leave, financial strain, preterm

delivery, cesarean section delivery and work attachment among women offered any maternity leave

	Model 1—unadjusted N = 463 ^a				Wald test	Model 2—adjusted N = 463 ^a				Wald test	Model 3—adjusted N = 429 ^a				Wald test
	OR	P	95 % CI			OR	P	95 % CI			OR	P	95 % CI		
Maternity leave offered															
≤6 weeks offered	5.07	<0.001	2.06	12.50		5.10	<0.001	2.07	12.56		5.63	<0.001	2.21	14.33	
6–12 weeks offered	5.35	<0.001	2.22	12.89	0.0007	5.44	<0.001	2.24	13.20	0.0007	5.07	<0.001	2.05	12.50	0.0008
>12 weeks offered	1					1					1				
Unpaid leave						0.92	0.80	0.49	1.74		0.78	0.47	0.40	1.53	
Financial strain											1.88	0.08	0.92	3.85	
Preterm delivery											1.00	1.00	0.54	1.85	
C-Section											1.78	0.09	0.92	3.44	
Work attachment											0.75	0.30	0.44	1.30	

Bolded estimates denote significance at $P \leq 0.05$ ^a Censored data added

associated with a six-fold odds of a short-average maternity leave (OR = 5.96; 2.4–14.8) and an offer of <6 weeks and of 6–12 weeks was associated with a five-fold odds of a short-average maternity leave (OR = 5.39, 2.1–13.7; OR = 5.11, 2.1–12.6, respectively). In addition, the odds of a short-average maternity leave were almost two-fold higher (OR = 1.86; 1.06–3.25) for mothers who experienced financial strain compared to those who did not.

When the sample was restricted to women with at least some EOML, the duration of EOML remained significantly related to early return to work (Table 3). Compared with mothers who were offered more than 12 weeks of maternity

leave, mothers with <6 weeks of EOML had 5.07 times higher odds of returning to work within 12 weeks (2.06–12.50) and mothers offered 6–12 weeks of leave had 5.35 times higher odds of a return within 12 weeks (2.22–12.89) (Model 1, Table 3). These relationships were similar after controlling for whether only unpaid leave was offered (Model 2, Table 3), and after controlling for other covariates (Model 3, Table 3). Among women with EOML, neither unpaid leave nor financial strain was a significant predictor of a return to work within 12 weeks.

A linear regression analysis showed wide variability in the distributions of maternity leave duration and amount of

EOML; on average women took more leave than was offered prior to 91 days, but took less leave than offered after that point. Despite this variability, among women who were offered up to 6 months of leave and took leave ($n = 456$), there was a linear and statistically significant relationship between number of days of EOML and duration of actual leave ($b = 0.23$; $P = 0.001$; $R^2 = 0.04$) (data not shown).

Discussion

Consistent with previous studies, we found that most mothers took at least one week of maternity leave following childbirth [22, 24] and 54 % returned to work within 12 weeks, which is the maximum amount allowed by FMLA. Nationally, between 2005 and 2007, almost 40 % of first-time mothers who worked during pregnancy returned to work within 3 months following childbirth [2]. Since *early* return to work has been steadily increasing among mothers in the last 30 years [2] and the minimal provision of employment support through FMLA conflicts with the growing number of mothers in the labor force, it is critical to identify factors that facilitate work-family balance for mothers. This study explored whether access to and duration of EOML was associated with the timing of mothers' return to work in California, a state that offers more generous maternity leave benefits than FMLA.

Our findings from both linear and logistic regression models demonstrate that access to longer EOML is associated with a later return to work following childbirth, and this association persists when controlling for whether leave was paid, unusual financial strain and personality and health characteristics. Our findings suggest that among full-time working mothers, the duration of leave offered—which carries with it assurance of continuity of employment—may be a more important determinant of timing of return to work after childbirth than whether the leave is paid. Furthermore, the findings reveal that EOML is a crucial determinant of timing of mothers' return to work even in California, a progressive state that offers income support through employee contributions to the SDI program. Earlier research found no association between unpaid EOML and return to work after childbirth [25]. However, these results from the 1980s may have been biased by the substantial number of women who changed employers between giving birth and being interviewed.

Our findings are consistent with a recent national Census Bureau study showing that most women return to work within 3 months regardless of whether the leave is paid [2]. A study using 1988 national data found that mothers with access to paid leave were less likely to return to work in the first month after childbirth compared with mothers without paid leave, but this pattern reversed with second and

subsequent months after childbirth [22]. Both studies, however, did not examine EOML and therefore cannot discern the relative importance of guaranteed job security linked to EOML versus paid leave as determinants of maternity leave duration. Perhaps paid leave weakly predicts the duration of leave because the amount of wage replacement is low and does not cover the additional expenses of a growing family. In recent years, employers have become less likely to provide full pay during maternity leave in order to incentivize mothers' earlier return [10]. Whether paid leave remains a significant predictor of short maternity leave among poor working parents requires further investigation [7–9]. Yet, from a policy perspective our findings indicate that more efforts need to be put into advocating for broader eligibility for FMLA by expanding the number of companies included, and reducing work tenure and hours-worked restrictions. While working toward income replacement during maternity leave is an important goal, an unmet need for guaranteed job security remains, which advocacy efforts must pursue to expand access to family leave.

Our study also showed that despite having SDI for pregnancy disability in California, 29 % of mothers who delivered between 2002 and 2003 lacked EOML and these mothers were most likely to return to work within 12 weeks. Disparities in access to maternity leave protection not only influence maternal decisions on timing of return to work but may also affect disparities in maternal and infant health outcomes [12–17]. We previously found that a postpartum maternity leave of ≤ 6 weeks or 6–12 weeks was associated, respectively, with a fourfold and twofold higher odds of failure to establish breastfeeding, after adjusting for covariates [12].

The economic cost of taking time out from the labor market may be higher in the US than in other industrialized countries with stronger safety nets, and can exacerbate financial strain, thereby intensifying pressure to return to work early [11]. According to our findings, mothers who reported unusual financial strain had almost twice the odds of returning to work within 12 weeks compared to mothers who experienced no financial strain, after controlling for EOML and other covariates. Government-supported paid leave programs help to offset the cost of taking time off to care for infants by providing partial wage replacement. California's paid family leave (PFL) program, established in 2004, can be used for bonding with a new baby for an additional 6 weeks after pregnancy leave runs out. Despite its low uptake, primarily due to fear of negative employment consequences [9], PFL appears to have increased maternity leave duration by an additional 3–4 weeks in California—and even longer for socio-economically disadvantaged mothers [26].

Our findings require cautious interpretation. Cross-sectional data temper our ability to make causal inferences.

We relied on a self-reported measure of access to EOML and did not evaluate the extent of wage replacement. We also did not examine the effects of antenatal leave, though a previous study from the same population suggests that 15 % of full-time workers took maternity leave in the ninth month of pregnancy [19]. Furthermore, we lacked information on partners' leave taking. Women whose partners had access to more generous leave policies may have reduced their own leave taking in order to optimize their childcare and employment options. Our data were collected prior to the implementation of California's PFL program in 2004. However, since women who use PFL tend to increase leave duration by 3–4 weeks on average after the 6–8 week pregnancy leave runs out, it is unlikely that our assessment of the association between EOML duration and maternity leave duration dichotomized as ≤ 12 weeks or > 12 weeks would have changed the results substantially. Furthermore, since only a few states mandate paid leave, our results are still relevant for the majority of states.

Strengths of our study include a socio-economically and ethnically diverse population, and an analysis restricted to women who worked pre-birth and planned to return or had returned to work for the same employer. Evidence shows that women who work during pregnancy have greater odds of working within 3–5 months following birth than mothers who do not work during pregnancy [2].

In sum, full-time working mothers are often forced to make tough compromises between work and mothering. According to our findings, women who are offered no or short maternity leave by their employers are highly likely to return to work within 12 weeks, regardless of whether the leave is paid. The duration of EOML is a key determinant of timing of return to work after childbirth, affecting mothers' ability to balance work and family needs. Policy makers need to recognize the pivotal role of employers in offering job security during and after maternity leave and consider widening the eligibility criteria of FMLA.

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City and County of San Francisco
DEPARTMENT ON THE STATUS OF WOMEN



Edwin M. Lee
Mayor

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THE BUSINESS CASE FOR THE FAMILY FRIENDLY WORKPLACE ORDINANCE
By the Coalition of San Francisco and California Organizations for Flexible Workplaces

The stereotypical one-breadwinner, one-homemaker household is not a reality for most families. Instead, most workers struggle to balance work and family caregiving responsibilities, which affects employee productivity and retention. To successfully attract and retain the most talented and committed employees, growing numbers of employers are realizing they need to adapt to the 21st century workforce and find ways to accommodate the changing family structure by adopting flexible workplace policies.

The San Francisco Family Friendly Workplace Ordinance (FFWO) addresses this need by giving workers the right to request flexible working arrangements to help them meet their caregiving responsibilities for a child, an elderly parent, or a seriously ill family member. Examples of such arrangements include telecommuting, a change in schedule, or job-sharing. The ordinance requires employers to consider the employee's request, while also giving employers the right to deny it for valid business reasons. The FFWO also prohibits employers from retaliating against workers for requesting a flexible or predictable work arrangement, and makes it unlawful to discriminate against workers based on their status as caregivers. The ordinance covers workers employed within the City and County of San Francisco who work for employers with at least 20 employees, and applies to 3,652 out of roughly 100,000 registered businesses in the city.

The FFWO is *not* a mandate to grant all employee requests for flexible working arrangements, but does open the door for dialogue between employees and employers about arrangements that will benefit both. In fact, as explained below, businesses have a lot to gain from implementing family-friendly workplace (FFW) policies.

WHY BUSINESSES SHOULD IMPLEMENT WORKPLACE FLEXIBILITY

➤ **IT'S A SMART INVESTMENT.**

According to the 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 IMPROVES EMPLOYEE PRODUCTIVITY, MORALE, AND RETENTION.**

The Urban Institute at Georgetown Law School report that 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 HAS WORKED WELL IN OTHER COUNTRIES.**

A number of European countries, including Great Britain, France, Germany and Holland, have successfully implemented laws granting employees the right to ask for flexible workplace arrangements without fear of retaliation and require employers to consider such requests in good faith.

➤ **IT BENEFITS COMPANIES WITH HOURLY AND SALARIED WORKERS.**

The UC Hastings Center for Work Life Law has found that 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.

➤ **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.**

The numbers of men requesting flexible work arrangements has increased dramatically. According to a 2011 study by the Sloan Center, 95% of working fathers agreed that workplace flexibility would impact their decision when considering a new job; more than three quarters 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.

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CONTRIBUTING COALITION MEMBERS

The San Francisco Department on the Status of Women, The Legal Aid Society, Next Generation, and Equal Rights Advocates.



City and County of San Francisco
DEPARTMENT ON THE STATUS OF WOMEN

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File No. 130785



Emily M. Murase, PhD
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Edwin M. Lee
 Mayor

San Francisco's History of Policy Work on Creating Flexible Schedules for the Workforce

- 1998 CEDAW, Women's Human Rights Ordinance is adopted.
- 1999 CEDAW Task Force developed Gender Analysis Guidelines, which include flexibility component.
- 1999 1999-2000 Gender Analysis of Adult Probation, Arts Commission, Environment, Juvenile Probation, Public Works, and the Rent Board. A recurrent theme in was the need to consistently balance work and life for both men and women.
- 2000 SF DOSW fought to conduct Work-Life Study of the City and County of San Francisco.
- 2001 *Work-Life Policies and Practices Survey Report.*
- 2002 Adult Probation expanded its formal telecommuting policies (in place in the Investigations unit for almost ten years) to the Community Services Unit.....work product has increased, absenteeism has decreased, and office rent savings have been realized.
- 2002 Legislation regarding compensation during parental leave went to the voters as Ballot Proposition I and passed in November 2002. See Compensation during Parental Leave, City and County of San Francisco Municipal Code, A8.365 (2002).
- 2008 Gender Equality Principles created. Principle 2 focuses on policies that enable work-life balance. These principles, including Principle 2, have been adopted by and made into the UN Global Compact, Women Empowerment Principle's.
- 2008 Gender Equality Principles Work-Life Roundtable kicks off Gender Equality Principles Initiative with small and large companies. The Initiative creates benchmarks for best practices including work-life indicators.
- 2009 Environment Department's flex-time program allows employees to begin their work days any time between 6:30 and 9:30 a.m. As of February 2009, 51 of the 68 employees used the 9/80 program and 42 employees used the flex-time program.
- 2010 Following the SF Gender Equality Principles, similar Policies that enable work-life balance were adopted by the UN Global Compact, Women Empowerment Principle's.
- 2010 Northeastern University School of Law: Work-Life Balance and Career Development - A *Comparative Analysis of Work-Life Balance for Private Employers.*
- 2012 SF Wins International Award from Italian Government for its Gender Equality Principles initiative around flexibility.
- 2013 Clayman Institute, Stanford University Gender Equality Principle Council member) will host a The Redesigning and Redefining Work Summit on the changing nature of work. SFDOSW to participate in invitation only event.



City and County of San Francisco

Department on the Status of Women

Mayor Edwin M. Lee

Executive Director Emily M. Murase, PhD

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CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL CODE ADMINISTRATIVE CODE

CHAPTER 12K: LOCAL IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Sec. 12K.1. Findings.

Sec. 12K.2. Definitions.

Sec. 12K.3. Local Principles of CEDAW.

Sec. 12K.4. Implementation of the Principles of CEDAW in San Francisco.

Sec. 12K.5. CEDAW Task Force.

Sec. 12K.6. Summary of CEDAW.

SEC. 12K.1. FINDINGS.

The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

(a) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an international human rights treaty, provides a universal definition of discrimination against women and brings attention to a whole range of issues concerning women's human rights. Countries that ratify CEDAW are mandated to condemn all forms of discrimination against women and girls and to ensure equality for women and girls in the civil, political, economic, social and cultural arenas. The United Nations General Assembly adopted CEDAW in 1979 and President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has not yet ratified CEDAW.

(b) On October 30, 1997, a consortium of community organizations, the Commission on the Status of Women, the Human Rights Commission and Board of Supervisors President Barbara Kaufman held a hearing on the local implications of CEDAW. The testimony at the hearing demonstrated that women and girls continue to face discrimination in the areas of economic development and employment, violence against women and girls, and health care. On November 10, 1997, the Board of Supervisors adopted Resolution No. 1021-97, supporting the local implementation of the underlying principles of CEDAW and urging the United States Senate to ratify CEDAW. On November 17, 1997, Mayor Willie Brown approved Resolution No. 1021-97.

(c) There is a continued need for the City and County of San Francisco to protect the human rights of women and girls by addressing discrimination, including violence, against them and to implement, locally, the principles of CEDAW. Adherence to the principles of CEDAW on the local level will especially promote equal access to and equity in health care, employment, economic development and educational opportunities for women and girls and will also address the continuing and critical problems of violence against women and girls. There is a need to analyze the operations of City departments, policies and programs to identify discrimination in, but not limited to,

employment practices, budget allocation and the provision of direct and indirect services and, if identified, to remedy that discrimination. In addition, there is a need to work toward implementing the principles of CEDAW in the private sector.

(d) There is a need to strengthen effective national and local mechanisms, institutions and procedures and to provide adequate resources, commitment and authority to: (1) advise on the impact of all government policies on women and girls; (2) monitor the situation of women comprehensively; and (3) help formulate new policies and effectively carry out strategies and measures to eliminate discrimination. The Commission on the Status of Women shall be designated as the implementing and monitoring agency of CEDAW in the City and County of San Francisco.

(e) In April 1998, the City and County of San Francisco originally enacted this ordinance implementing the principles underlying CEDAW. In 1998, City officials and community representatives formed a CEDAW Task Force. In 1999, the CEDAW Task Force and the Commission on the Status of Women developed "Guidelines for a Gender Analysis," a set of guidelines to assist City departments in implementing the local principles of CEDAW. In 1999, two City departments used the Guidelines to analyze their departments. The resulting report, "A Gender Analysis: Implementing the Convention on the Elimination of All Forms of Discrimination against Women" (November 1999) demonstrated a continuing need to work on elimination of discrimination against women. The Report further revealed that discrimination based on gender is interconnected and often overlaps with discrimination based on race and other criteria.

(f) The Report called on the City and County of San Francisco and its departments to:

- (1) Increase education in human rights with a gender perspective;
- (2) Expand the collection of data disaggregated by gender, race and other traits; and
- (3) Create a more fair and equitable workplace by increasing effective recruitment efforts for a diverse workforce, providing meaningful family friendly policies to retain employees and increasing professional development and training opportunities for all employees.

The Report revealed the need to analyze policies, procedures and programs on a Citywide, in addition to, department level. Both the Report and the department human rights trainings revealed the need to consider the intersection of gender and race in particular recognizing the unique experiences of women of color.

(Added by Ord. 128-98, App. 4/13/98; amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.2. DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings indicated herein:

- (a) "City or City and County" shall mean the City and County of San Francisco.
- (b) "Commission" shall mean the Commission on the Status of Women.
- (c) "Disaggregated data" shall mean information collected and analyzed by enumerated categories in order to identify the disparities existing between women and men. These categories shall include, to the extent permitted by law, sex, race, immigration status, parental status, language, sexual orientation, disability, age and other attributes.
- (d) "Discrimination against women" shall include, but not be limited to, any distinction, exclusion or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty by family, community or government.

(e) "Gender" shall mean the way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities and needs, rather than their biological differences.

(f) "Gender analysis" shall mean an examination of the cultural, economic, social, civil, legal and political relations between women and men within a certain entity, recognizing that women and men have different social roles, responsibilities, opportunities and needs and that these differences, which permeate our society, affect how decisions and policy are made.

(g) "Gender equity" shall mean the redress of discriminatory practices and establishment of conditions enabling women to achieve full equality with men, recognizing that needs of women and men may differ, resulting in fair and equitable outcomes for both.

(h) "Human rights" shall mean the rights every individual possesses that are intended to improve the conditions in society that protect each person's dignity and well-being and the humanity of all people.

(i) "Racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

(Added by Ord. 325-00, File No. 001920, App. 12/28/2000. Former Sec. 12K.2 renumbered as Sec. 12K.3 by Ord. 325-00)

SEC. 12K.3. LOCAL PRINCIPLES OF CEDAW.

It shall be the goal of the City to implement the principles underlying CEDAW, listed in Section 12K.6 by addressing discrimination against women and girls in areas including economic development, violence against women and girls and health care. In implementing CEDAW, the City recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. The City shall ensure that the City does not discriminate against women in areas including employment practices, allocation of funding and delivery of direct and indirect services. The City shall conduct gender analyses, as described in Section 12K.4, to determine what, if any, City practices and policies should change to implement the principles of CEDAW.

(a) Economic Development.

(1) The City shall take all appropriate measures to eliminate discrimination against women and girls in the City of San Francisco in employment and other economic opportunities, including, but not limited to, ensuring:

(A) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;

(B) The right to promotion, job security and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision making posts, City revenue generating and managing commissions and departments, and judicial positions;

(C) The right to equal remuneration, including benefits and to equal pay in respect to work of equal value;

(D) The right to the protection of health and safety in working conditions, including supporting efforts not to purchase sweatshop goods, regular inspection of work premises, and protection from violent acts at the workplace.

(2) The City shall encourage and, where possible, fund the provisions of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies and work-life balance.

(3) The City shall encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(b) Violence Against Women and Girls.

(1) The City shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including, but not limited to:

(A) Police enforcement of criminal penalties and civil remedies, when appropriate;

(B) Providing appropriate protective and support services for survivors, including counseling and rehabilitation programs;

(C) Providing gender-sensitive training of City employees regarding violence against women and girls, where appropriate; and

(D) Providing rehabilitation programs for perpetrators of violence against women or girls, where appropriate.

The City shall not discriminate on the basis of race, ethnicity, culture, language or sexual orientation, when providing the above supportive services.

(2) It shall be the goal of the City to take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment. Such protection shall include streamlined and rapid investigation of complaints.

(3) Prostitutes are especially vulnerable to violence because their legal status tends to marginalize them. It shall be the policy of San Francisco that the Police Department diligently investigate violent attacks against prostitutes and take efforts to establish the level of coercion involved in the prostitution, in particular where there is evidence of trafficking in women and girls. It shall be the goal of the City to develop and fund projects to help prostitutes who have been subject to violence and to prevent such acts.

(4) The City shall ensure that all public works projects include measures, such as adequate lighting, to protect the safety of women and girls.

(5) It shall be the goal of the City to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.

(c) Health Care.

(1) It shall be the goal of the City to take all appropriate measures to eliminate discrimination against women and girls in the field of health care in order to ensure, on a basis of equity, information about and access to adequate health care facilities and services, according to the needs of all communities, regardless of race, ethnicity, culture, language, and sexual orientation, including information, counseling and services in family planning.

(2) It shall be the goal of the City to ensure that women and girls receive appropriate services in connection with prenatal care, delivery, and the post-natal period, granting free services where possible, as well as adequate nutrition during pregnancy and lactation.

(d) In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Formerly Sec. 12K.2; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.4. IMPLEMENTATION OF THE PRINCIPLES OF CEDAW IN SAN FRANCISCO.

(a) Citywide integration of human rights principles. The City shall work towards integrating gender equity and human rights principles into all of its operations, including policy, program and budgetary decision-making. The Commission shall train selected departments in human rights with a gender perspective.

(b) Gender Analysis and Action Plan. As a tool for determining whether the City is implementing the local principles of CEDAW and/or discriminating against women and girls, selected City departments, programs, policies, and private entities to the extent permitted by law, shall undergo a gender analysis and develop an Action Plan. The gender analysis shall be conducted according to guidelines developed by the CEDAW Task Force and Commission. The gender analysis shall include: (i) the collection of disaggregated data; (ii) an evaluation of gender equity in the entity's operations, including its budget allocations, delivery of direct and indirect services and employment practices and (iii) the entity's integration of human rights principles and the local principles of CEDAW as set forth in section 12K.3. Upon completion of the gender analysis, the entity shall develop an Action Plan that contains specific recommendations on how it will correct any identified deficiencies and integrate human rights principles and the local principles of CEDAW into its operations.

(1) The CEDAW Task Force shall identify the City departments, programs, policies, and entities, to undergo the gender analysis and shall develop timelines for completion of the analyses and Action Plans. In the absence of Task Force action, the Commission shall make the selections.

(2) The Commission shall train the selected department, entity, policy or program staff to conduct its gender analysis and shall provide technical assistance to the entity throughout the gender analysis process and development of the Action Plan.

(3) Each department or entity undergoing a gender analysis shall designate a management and/or executive level employee to serve as a liaison to the Commission and to coordinate the completion of the gender analysis.

(4) Each department or entity undergoing a gender analysis shall provide a report on its gender analysis and its Action Plan to the CEDAW Task Force and the Commission, which shall review, analyze and comment on the report and forward it to the Board of Supervisors and the Mayor.

(5) The Commission shall monitor the implementation of each department or entity's Action Plan.

(c) Five-year Citywide Action Plan. Provided sufficient funds are available, the Commission and the CEDAW Task Force shall jointly develop a five-year Citywide Action Plan. The Citywide Action Plan shall address how to integrate human rights principles into the City's operations, how to further implement the local principles of CEDAW as described in Section 12K.3, any and all deficiencies found in the gender

analyses and the measures recommended to correct those deficiencies. The Commission and the CEDAW Task Force shall present the Action Plan to the Mayor and the Board of Supervisors on or before December 30, 2002. The Board of Supervisors Committee responsible for considering the City's budget shall hold a hearing to receive the Citywide Action Plan and public comment thereon. The Commission shall monitor the implementation of the Citywide Action Plan.

(Formerly Sec. 12K.3; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.5. CEDAW TASK FORCE.

(a) Establishment. A CEDAW Task Force is hereby established. The Task Force shall report to the Mayor, the Board of Supervisors and the Commission. The Commission shall provide administrative support for the Task Force. The Task Force shall consist of 11 members.

(b) Purpose. The Task Force is established to advise the Mayor, the Board of Supervisors and the Commission about the local implementation of CEDAW.

(c) Powers and Duties. The Task Force shall have all powers and duties necessary to carry out the local implementation of CEDAW as described in Section 12K.4.

(d) Membership and Organization.

(1) The members of the Task Force shall be as follows:

(A) The President of the Human Rights Commission or her or his designee;

(B) A staff member from the Mayor's Office knowledgeable about the City's budget, to be designated by the Mayor;

(C) The head of the Department of Human Resources or her or his designee;

(D) The President of the Board of Supervisors or her or his designee;

(E) The President of the Commission or her or his designee;

(F) Six members from the community to be appointed by the Commission, as follows:

(i) Two representatives shall work in the field of international human rights and be knowledgeable about CEDAW,

(ii) One representative shall be knowledgeable about economic development, including employment issues,

(iii) One representative shall be knowledgeable about health care issues,

(iv) One representative shall be knowledgeable about violence against women, and

(v) One representative shall be knowledgeable about City unions and experienced in women's issues.

(2) The Task Force shall convene by June 1, 1998.

(3) The Task Force shall expire on June 30, 2003, unless its powers are renewed by the Board of Supervisors. When the Task Force expires, the Commission shall take on the leadership and responsibilities previously designated to the Task Force.

(4) All appointed members of Task Force shall serve at the pleasure of their appointing authorities. The term of each community member of the CEDAW Task Force shall be for two years; provided however, that the initial members shall, by lot, classify their terms so that three members shall serve a two-year term and two members shall serve a three-year term. Subject to the expiration of the

Task Force, their successors shall be appointed for a three-year term; provided, however, that any member may be reappointed for consecutive terms.

(e) Alternate members. An alternate may be designated for each member. Ex officio members enumerated in Subsection (d)(1)(A)–(E) may designate a person to serve as her or his alternate. The Commission may appoint alternate members for those community members enumerated in Subsection (d)(1)(F). The term of office of the alternate shall be the same as that of the regular member. When the regular member is not present at the meeting of the Task Force, the alternate may act as the regular member and shall have all the rights, privileges, and responsibilities of the regular member.

(f) Attendance requirement. The President of the Commission, or her or his designee, shall monitor the attendance of the Task Force. In the event that any community member, enumerated in Subsection (d)(1)(F), and her or his alternate miss three regularly scheduled meetings of the Task Force without the prior notice to the Task Force, the President or her or his designee shall certify in writing to the Commission that the member and alternate have missed three meetings. On the date of such certification, the member and alternate shall be deemed to have resigned from the Task Force. The President or her or his designee shall notify the Commission of the resignation and request the appointment of a new member and alternate.

(Formerly Sec. 12K.4; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000; Ord. 16-03, File No. 021853, App 2/7/2003)

SEC. 12K.6. SUMMARY OF CEDAW.

Article 1: Defines discrimination against women as any "distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, on the basis of equality between men and women, of human rights or fundamental freedom in the political, economic, social, cultural, civil, or any other field."

Article 2. Mandates concrete steps, implementing laws, policies and practices to eliminate discrimination against women and embody the principle of equality.

Article 3. Requires action in all fields--civil, political, economic, social, and cultural--to advance the human rights of women.

Article 4. Permits affirmative action measures to accelerate equality and eliminate discrimination.

Article 5. Recognizes the role of culture and tradition, and calls for the elimination of sex role stereotyping.

Article 6. Requires suppression of traffic in women and exploitation of prostitutes.

Article 7. Mandates ending discrimination against women in political and public life.

Article 8. Requires action to allow women to represent their governments internationally on an equal basis with men.

Article 9. Mandates that women will have equal rights with men to acquire, change or retain their nationality and that of their children.

Article 10. Obligates equal access to all fields of education and the elimination of stereotyped concepts of the roles of men and women.

Article 11. Mandates the end of discrimination in the field of employment and recognizes the right to work as a human right.

Article 12. Requires steps to eliminate discrimination from the field of health care, including access to family planning. If necessary, these services must be free of charge.

Article 13. Requires that women be ensured equal access to family benefits, bank loans, credit, sports and cultural life.

Article 14. Focuses on the particular problems faced by rural women.

Article 15. Guarantees equality before the law and equal access to administer property.

Article 16. Requires steps to ensure equality in marriage and family relations.

Article 17. Calls for the establishment of a committee to evaluate the progress of the implementation of CEDAW.

Articles 18--30. Set forth elements of the operation of the treaty.

(Formerly Sec. 12K.5; added by Ord. 128-98, App. 4/13/98; renumbered by Ord. 325-00, File No. 001920, App. 12/28/2000)

September 12, 2013

File No. 130785
9/23/13 Received
in Committee



Supervisor David Chiu
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Support for Family Friendly Workplace Ordinance (Chiu)

Dear Supervisor Chiu:

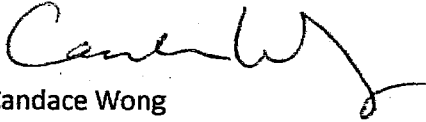
The San Francisco Child Care Planning and Advisory Council (CPAC) is mandated by the state to assess all aspects of local child care supply and demand, and to set priorities for determining state and local spending to meet existing needs. Supported by the California Department of Education, CPAC advocates energetically for local, state, and federal funding for child care.

CPAC supports the proposed Ordinance amending the administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with caregiving responsibilities and prohibit adverse employment actions or retaliation based on caregiver status. Protecting the right to request for an adjusted work arrangement recognizes the reality of the oftentimes very challenging work and family responsibilities that arise when there is unforeseen caregiver related change.

In San Francisco, 4 out of 5 families that have 2 adults, both parents are working and the number of single parent households have doubled since the 1970's. This change equates to most workers needing to combine work and family responsibilities, often in unmanageable ways. Although the reality is those workers who lack access to flexible and predictable work schedules are most often low-wage workers, female, and workers of color, this right to request legislation would be a benefit to all including higher-wage workers.

CPAC would like to thank you for your leadership in introducing this Ordinance and developing this strong piece of public policy.

Sincerely,


Candace Wong
CPAC Chair

San Francisco Child Care Planning & Advisory Council (CPAC) • www.sfcpcac.org
Erica Maybaum, Coordinator • (415) 236-CPAC(2722) • ericamay.cpac@gmail.com

"Setting and driving the child care agenda for San Francisco's children and their families"

9/23/13 Submitted
in Committee



**San Francisco
Women's Political
Committee**

FPPC #1243711
PO Box 191783
San Francisco, CA
94119-1783
info@sfwpc.org
www.sfwpc.org

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President*

*Katie Ijams
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*Jaynry Mak and
Frances Hsieh
Advisory Board Co-Chairs*

September 23, 2013

Supervisor David Chiu, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: FAMILY FRIENDLY WORKPLACE ORDINANCE

Dear Supervisor Chiu,

The San Francisco Women's Political Committee (SFWPC) would like to enthusiastically support the Family Friendly Workplace Ordinance (BOS File No. 13-0785) that will be heard at today's Land Use and Economic Development Committee hearing.

SFWPC has been working since 2002 to develop, endorse, and promote policies that improve the lives of women and families in San Francisco through collaboration with elected officials, public agencies, and partner organizations.

We believe that this legislation will improve the lives of families and caregivers and assist in alleviating the burdens of maintaining career and family interests. It will help retain families in San Francisco and is responsive to the needs and interests of women and families.

In particular, we support:

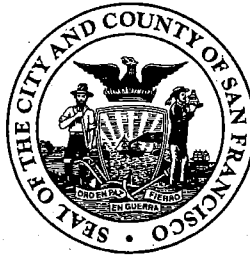
- Creating a "Right to Request" for employees that would require an employer to consider and respond to an employee's request;
- The acknowledgement that in 2013, it is more important than ever to have a flexible work arrangement and scheduling predictability; and
- The establishment of a clear, reasonable, process for employers and employees to work together to find solutions that will benefit everyone involved and a stronger workplace.

SFWPC recognizes the complexity that many families have in balancing the myriad of interests in today's society. We applaud this forward-thinking legislation and lend our full support. We hope that its passage will be smooth and it will be in effect soon so that families and caregivers can begin utilizing its provisions.

SFWPC fully supports this important legislation and encourages the Board to vote yes in support.

Best regards,
SFWPC Board of Directors

BOARD of SUPERVISORS



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

September 6, 2013

File No. 130785

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On July 30, 2013, Supervisor Chiu introduced the following proposed legislation:

File No. 130785

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; to prohibit adverse employment actions based on caregiver status; to prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; to require employers to post a notice informing employees of their rights under the Ordinance; to require employers to maintain records regarding compliance with the Ordinance; to authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; to authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, reading "Alisa Miller".

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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

MEMORANDUM

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

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: September 6, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130785

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; to prohibit adverse employment actions based on caregiver status; to prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; to require employers to post a notice informing employees of their rights under the Ordinance; to require employers to maintain records regarding compliance with the Ordinance; to authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; to authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

Chairperson, Small Business Commission

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Youth Commission

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: September 6, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, which is being referred to the Youth Commission, per Charter Section 4.124, for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130785

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; to prohibit adverse employment actions based on caregiver status; to prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; to require employers to post a notice informing employees of their rights under the Ordinance; to require employers to maintain records regarding compliance with the Ordinance; to authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; to authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM YOUTH COMMISSION

Date: _____

____ No Comment

____ Recommendation Attached

Chairperson, Youth Commission

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Donna Levitt, Office of Labor Standards Enforcement
Maria Su, Director, Department of Children, Youth and Their Families
Trent Rhorer, Executive Director, Human Services Agency
Micki Callahan, Director, Department of Human Resources

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: September 6, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Chiu on July 30, 2013:

File No. 130785

Ordinance amending the Administrative Code to allow San Francisco-based employees to request flexible or predictable working arrangements to assist with care giving responsibilities, subject to the employer's right to deny a request based on business reasons; to prohibit adverse employment actions based on caregiver status; to prohibit interference with rights or retaliation against employees for exercising rights under the Ordinance; to require employers to post a notice informing employees of their rights under the Ordinance; to require employers to maintain records regarding compliance with the Ordinance; to authorize enforcement by the Office of Labor Standards Enforcement, including the imposition of remedies and penalties for a violation and an appeal process for an employer to an independent hearing officer; to authorize waiver of the provisions of the Ordinance in a collective bargaining agreement; and making environmental findings.

If you have any additional 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.

Miller, Alisa

From: Caldeira, Rick
Sent: Tuesday, September 24, 2013 1:50 PM
To: Miller, Alisa
Subject: FW: Please add Sup Kim as Co-sponsor to File 130785

Please process.

From: Veneracion, April
Sent: Tuesday, September 24, 2013 1:49 PM
To: Caldeira, Rick; Angulo, Sunny; Lee, Ivy
Cc: Rauschuber, Catherine
Subject: RE: Please add Sup Kim as Co-sponsor to File 130785

Thank you, Rick. Yes, Supervisor Kim would like to be added as a co-sponsor.

From: Caldeira, Rick
Sent: Tuesday, September 24, 2013 1:44 PM
To: Angulo, Sunny; Lee, Ivy; Veneracion, April
Cc: Rauschuber, Catherine
Subject: RE: Please add Sup Kim as Co-sponsor to File 130785

Please confirm.

From: Rauschuber, Catherine
Sent: Tuesday, September 24, 2013 11:28 AM
To: Caldeira, Rick
Subject: Please add Sup Kim as Co-sponsor to File 130785

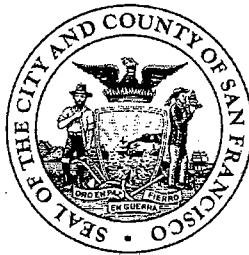
Hi Rick,

Yesterday, Supervisor Kim told Supervisor Chiu that she would like to be added as a cosponsor to the Family Friendly Workplace Ordinance. Would it be possible to get her name added as a co-sponsor in time to be included on the legislation under consideration at the BoS meeting next Tuesday?

Thanks,
Catherine

Catherine Rauschuber
Office of Supervisor David Chiu
President, San Francisco Board of Supervisors

President, District 3
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7450
Fax No. 554-7454
TDD/TTY No. 544-5227

DAVID CHIU

邱信福
市參事會主席

PRESIDENTIAL ACTION

Date: September 5, 2013

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

☐ Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____

☒ Transferring (Board Rule No. 3.3)

File No. 130785

From: Rules Committee

To: Land Use & Economic Development Committee

☐ Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2013 SEP -5 PM 1:46

David Chiu

David Chiu, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or the 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 [] inquires"
- ☐ 5. City Attorney request.
- ☐ 6. Call File No. [] from Committee.
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File No. []
- ☐ 9. Request for Closed Session (attach written motion).
- ☐ 10. Board to Sit as A Committee of the Whole.
- ☐ 11. Question(s) 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 a Imperative


Sponsor(s):

Supervisors Chiu, Cohen, Mar, Campos, Yee, and Breed, and Avalos

Subject:

Ordinance amending the Administrative Code to add Chapter 12Z, the Family Friendly Workplace Ordinance

The text is listed below or attached:

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

120785