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San Francisco Amends Workplace Ordinance to Accommodate Family Care

Many San Francisco employers have faced new requirements to comply with the city's amended Family Friendly Workplace Ordinance (FFWO), which went into effect on July 12, 2022, to provide flexible or predictable working arrangements to eligible employees.

Originally passed in 2014 but unanimously amended by the San Francisco Board of Supervisors in 2022, the ordinance provides employees who work in the city with the right to request changes in their work conditions, including part-time job sharing, flexible or predictable schedules, or teleworking, to help with their parenting or family caregiving responsibilities. The ordinance applies to employers in the city and county of San Francisco with 20 or more employees (covered employers). Individuals who work at least eight hours per week within San Francisco (including employees teleworking and assigned to a San Francisco office) and have worked at least six months for a covered employer are considered eligible employees.

An eligible employee must be a "primary caregiver," which is defined as someone who provides regular and substantial ongoing care to either their child (including adopted, foster, or stepchild) or to a spouse, domestic partner, parent, sibling, grandchild, or grandparent (to whom the employee is related to by blood, marriage, or domestic partnership) with a serious health condition or who is age 65 or older. Eligible employees may request changes to (1) the number of required work hours (e.g., part-time status, part-year employment, or job-sharing arrangements), (2) work schedules (e.g., modified work hours), (3) work location (including requests to telework), (4) work assignment, or (5) work duty modifications, and others (collectively known as arrangements).

An eligible employee must request an arrangement in writing, and the employer must respond to the request within 21 days. If the employer grants the employee's arrangement request, the approval must be confirmed in writing. If the employer does not agree to the request as presented, the employer must meet with the employee to engage in an interactive process to determine an alternative arrangement acceptable to both parties. After engaging in an interactive process, the employer may deny the request if it is able to demonstrate that the arrangement causes undue hardship. The employer must provide a written response that details the basis for the denial and notifies the employee of their right to request reconsideration by the employer and of the employee's right to file a complaint. Undue hardship may include significant identifiable expense or operational difficulty and will be considered in relation to the size, financial resources, nature, or structure of the employer's business.

Takeaways

The mandatory workplace notice is available [here](#) and also available in various languages. A sample eligible employee request form can be found [here](#).

Employers found in violation of the new ordinance will face an administrative penalty of the greater of \$50 per day for the duration of the violation, or up to the cost of care that the employee incurred due to the violation. Employers may also face additional civil penalties of the greater of \$50 per day for the duration of the violation, or up to the city's costs for investigation and remedy of the violation.

Employers and businesses operating in the city and county of San Francisco should contact experienced counsel if they have any questions about compliance with the latest changes to the FFWO.

Authors

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