

**FlexBulletin #87 – “Ask4Flex.org” – Turning a Mandate into a Mission**

January 30, 2014

In last month's [FlexBulletin #86 – Will True 2014 Recovery Reset Flex Trends?](#) I predicted that continued economic recovery, lower unemployment and even modest business optimism would lead to a resurgence of the traditional driver of flexibility: its proven recruitment and retention power.

In that **Bulletin**, I cited a different and noteworthy driver of flexibility in San Francisco. On January 1, the City began requiring all its employers with more than 20 employees in SF or elsewhere to allow caregivers to request a range of flexible schedules. Employers can say no for business reasons, but intimidation, retaliation and process violations can lead to fines. Based on UK policy, this law breaks with the voluntary standard of the US.

The question this raises for champions of flexibility: What, if anything, is to be done?

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**San Francisco calls the question**

As many **Bulletin** readers know, we followed the evolution of San Francisco's right to request law throughout 2013. Having worked with US clients in Europe who had to deal with such laws in the UK and elsewhere, we had serious reservations. Our preference was for voluntary, business-driven flexibility and our systems reinforced that view.

However, most of these systems used a version of the flex request form that we pioneered two decades ago. Thus our clients met all right to request requirements and more. They offered everyone the flexibility these laws promised caregivers, and were built on mutual gain, not a perceived one-sided benefit.

**Why the City acted like London**

For many years right to request legislation has been introduced, then withered and died in Congress. There was no groundswell from community, labor or flex advocates to support it. And there was powerful business opposition, led by the Chamber of Commerce. So what made San Francisco act?

- **Family flight** High tech business growth, gentrification, high rents – along with struggling schools – have fed a family exodus. Think of this as part of a family retention strategy.
- **Intense informality** Silicon Valley firms (now including SF as Silicon Valley North) have long prided themselves on being “very flexible” – but that flexibility is often uneven and unreliable.
- **Then...Yahoo** Everyone heard of Yahoo's “ban on telecommuting” – the elimination of a rare formal flex practices in The Valley. For transforming SF, this seemed a bad sign.

**Why San Francisco didn't act like Washington**

As with most significant change, leadership matters. The driver of this legislation (the Family Friendly Workplace Ordinance or FFWO) was the 3-term President of the Board of Supervisors – the city's legislature. David Chiu, an Asian-American community leader and businessman, is a thoughtful, analytic, Harvard-trained (College, Law, Kennedy School) political leader.

For the reasons above, he and his staff scoured the US and elsewhere for a solution to the city's pressing problems. He settled on flexibility and the right to request as part of a package of solutions to the family flight issue. To deal with the problem of potential business opposition, he first proposed a citywide ballot initiative – a vibrant part of SF's political culture. Through thorough and thoughtful negotiations, business ended up being neutral on the measure, which instead passed the full Board on an 11-0 vote.

Supervisor Chiu is currently on the November ballot for a seat in the California assembly. There is every reason to believe that he could become an effective champion of FFWO-like legislation for our most populous state – one with a Democratic legislature and governor. As more states legislate workplace issues, right to request laws could emerge in any city or state – as one has already in Vermont.

### **How should a longtime flex advocate react to these developments?**

As many of you know, I first practiced and promoted flexibility in Silicon Valley and San Francisco. I came east 20 years ago where formal flex was more welcome and with a few exceptions, have left the Bay Area alone.

When I first read of this legislation in the Washington Post, I felt conflicted and compelled to get involved. Many factors have gone into my thinking and our strategy. Among them:

- We believe firmly that business- and mutually beneficial flexibility can best maximize gains
- We think that persuasion, education-driven and voluntary change engages people best
- Yet we are amazed that 40 years after HP launched flextime, a right to request needs mandating
- We are not fully convinced that exemplary flex will naturally morph into universal practice
- Which leads us to wonder if a nudge from the government can turbocharge private activity

We chose last year to try to shape the legislation by adding insights from our extensive consulting work to the discussions. We spoke with Supervisors, committees and key parties about three simple facts:

The request process was used and functional in a broad range of countries and companies

1. Reason neutrality gave everyone, including caregivers, greater flex access
2. 2-step legislation might work best: a period for voluntary action followed by mandate if needed

### **And then there was “Ask 4 Flex”**

In the end, people understood our position. But a sense of urgency, the political calendar and ease of administration led to the modified legislation becoming law January 1.

A weakness of the legislative approach everywhere is that a mandate is announced and enforced, but there is little support for quality implementation. That might work for implementing minimum wage or mandatory benefits, but flex is about changing assumptions, behaviors and habits for employers large and small.

So, we decided to double down in 2014. With the support of sponsors and employers, we have launched a public service campaign to help businesses of all size do flex right. I heard our informal motto from my mom hundreds of times: “If it’s worth doing, it’s worth doing well.” On the one hand we will facilitate effective compliance with the caregiver-oriented ordinance; on the other we will promote a broader, more collaborative approach available to all employees.

We have launched a new website for San Francisco employees and employers that describes this effort in much more detail.

**[www.Ask4Flex.org](http://www.Ask4Flex.org)**

In doing this, we believe we are acting with an eye to the way flex is likely to roll out in the U.S. It is time to move the flex agenda aggressively. All of us will decide if that is a voluntary or mandatory process..

***We welcome your comments on this Bulletin. When you write, please email me at:***  
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