

October 17, 2016

To: Emeryville Mayor and Council Members

From: EBASE, ACCE, and Center for Popular Democracy

Re: **Response to California Retail Association Letter on Fair Workweek**

- 1) **San Francisco shows it can be done.** The CRA is repeating the same opposition they voiced to San Francisco's Retail Workers Bill of Rights when enacted in 2014. But the sky didn't fall there – San Francisco's Office of Labor Standards Enforcement reports there have been **no companies that have said they can't comply** and no evidence to date of widespread noncompliance.

- 2) **Retailers will lose money if they under-staff to avoid predictability pay:** Complaints about challenges forecasting labor needs or adapting to changes in demand run contrary to well-documented industry practice in the retail and food industries. All of these companies use workforce management technology capable of (1) providing accurate forecasts of labor needs and (2) automatically generating the records needed to show compliance with the policy. See the letter for the [CEO of Workplace Systems, a scheduling software provider](#). The scheduling software can also predict sales based on staffing, and retailers would be disincentivized to let shifts go empty instead of paying just one hour of predictability pay if a worker calls-out. The policy doesn't force employers to staff in a certain way or even prohibit them from changing the schedule daily - it simply requires that they compensate employees if they choose to change the schedule.

- 3) **Workers in San Francisco have more flexibility with advanced notice of schedules:** CRA misrepresents the impact the policy has had on workers. There is no evidence that the policy has reduced flexibility - in fact, as the stories of [Cayla, Ernie and Sergio](#), workers in San Francisco, make clear that having more notice of schedules increases flexibility by allowing workers to swap shifts if they are scheduled at a time that doesn't fit their needs.

Cayla Benjamin, a worker at Whole Foods in San Francisco, says: "...we have a computer program that generates the schedule automatically and puts it out 3 weeks in advance. It's great, and it really helps me plan my life. I eat healthier and can do real cooking because I know my schedule. Since I have more notice, *I have more of an opportunity to swap my shifts if something comes up.* During the holiday season in 2014, things got pretty hectic, and they were calling a lot of people in with short notice. This past year, it was better, because we all knew our schedule in advance and the store had just planned to have the right staffing levels. Every now and again *I get called and asked if I can come in, which is always up to me, but if I do come in, I get an extra hour of pay, which is awesome, and definitely makes an incentive to come in and help out.*

- 4) **Employee-initiated changes to schedules are implied not to trigger predictability pay.** We agree the ordinance should include a predictability pay exception for employee-initiated shift exchanges - that omission appears to be a drafting oversight. Because the current draft applies

predictability pay only to changes that the Covered Employer makes, we feel it is implied that employee-initiated shift changes would not trigger predictability pay.

- 5) **Noticing for access to hours:** It's noteworthy that employers support the policy as "beneficial and cost neutral." Their minor criticisms can be easily addressed. If employers find the two time periods confusing (72 vs. 24 hours for noticing and keeping an offer open), we support using the 72 hour noticing period in the San Francisco ordinance for all offers. The ordinance does state an employee who wishes to accept the additional hours must do so in writing; however, that is mainly to protect the employer so there is record of who accepts the hours.

The San Francisco Retail Workers' Bill of Rights: Worker Stories

Sergio Rosales—Starbucks

I worked as a barista at Starbucks in the San Francisco Financial District for over a year.

Before the law, we got our schedules sometimes with as little as 4 days' notice. It would usually come out by Tuesday for a Monday shift, but sometimes later. I saw it come out on a Thursday once for Monday shifts, and people were complaining. With less than a week's notice it was hard for us to pick up or swap shifts, because we didn't have time to contact our coworkers. It was so stressful to not know if we were going to work or not, or how many hours we'd get.

When the Retail Workers Bill of Rights Passed, my manager let us know that they were going to start publishing our schedules two weeks in advance, to help us plan our week, and so that if we need extra hours we can pick them up, and if we need someone to cover a shift we have more time to find someone. They started doing it right away, and everyone was really happy about it. It became much easier to swap and pick up shifts, because we had that advance notice.

Before the RWBOR it was harder for managers to find people to work if we were under-staffed, because people didn't know what their next schedule was going to be and so they'd be less likely to come in on their free time. And since we didn't know how many hours we would get the next week, we'd be more upset if we got sent home early on a shift too.

The RWBOR was very helpful. I worked part-time at Starbucks, and I have another job, so advance notice let me coordinate my schedule with my other boss. That helped me out tremendously. I was able to schedule around my other job and my social life. I could pick up more days, make my rent on time, and not get so stressed out. It let me run my errands easier, and take my dog out for walks. I felt like I'm in control of my schedule.

Before the Retail Workers Bill of Rights, I'd have to do a lot of 'clopenings,' which were exhausting. But knowing my schedule more in advance let us swap those shifts around more easily.

Before, I knew I had to do the favor of picking up shifts in order to get better shifts and better hours. If you did that you'd get on the good side of the manager. But now that's changed because my schedule's already set, and I can swap things around more easily.

Scheduling has run much smoother at the store since the RWBOR changes. There were way fewer no-calls no-shows after they started publishing the schedule in advance. It's much easier to find someone if you need coverage, and people are more likely to be able to pick up your shift if you can ask them further in advance. People are less worried about their schedules, and they're able to request time off more easily. It's easy to swap shifts between stores as well, so it helps out a lot. Everybody wins. We're a team, so we have each other's backs. We feel more likely to stay later or come in early if they need us. It just works out 100% in our favor. It's better for everybody.

Cayla Benjamin – Whole Foods

When I started working at Whole Foods in October 2014, my managers told me that they tried to get the schedule out two weeks in advance, but usually it was much later than that, sometimes as little as 8 or even 7 days in advance. Sometimes I would wait up till midnight on a night when I knew the schedule was supposed to come out, trying to plan out my week. It was really tough to schedule around work, because I had so little notice of my work schedule.

Sometimes I would have to cancel doctor's appointments, or wait till the last minute to make them. Lots of people would just call out on personal time or sick time if we had other obligations. Last year, I had planned weeks in advance to go to the Pride Parade here in SF, but since I got my schedule so late, I didn't have time to swap a shift and I had to just call out, which made everybody's life harder. And on my birthday I didn't have enough notice to swap my shift, so me and a bunch of my friends from work all ended up working that day, and we didn't get to celebrate.

But now, we have a computer program that generates the schedule automatically and puts it out 3 weeks in advance. It's great, and it really helps me plan my life. I eat healthier and can do real cooking because I know my schedule. Since I have more notice, I have more of an opportunity to swap my shifts if something comes up.

And once the schedule gets put out, the managers don't really change it, so things stay consistent for us. During the holiday season in 2014, things got pretty hectic, and they were calling a lot of people in with short notice. This past year, it was better, because we all knew our schedule in advance and the store had just planned to have the right staffing levels. Every now and again I get called and asked if I can come in, which is always up to me, but if I do come in, I get an extra hour of pay, which is awesome, and definitely makes an incentive to come in and help out.

At my store, managers generally offer additional hours to existing employees so they can reduce the number of new hires they have to bring on. After the Retail Workers Bill of Rights passed, I learned about an opportunity called "Part-Time 20," which means that you get guaranteed at least 20 hours every week. Last summer I was able to get into that program, and more of my coworkers are able to take

advantage of it too. I think that's helped bring down turnover, because people are able to get the hours they need. I recently got promoted to be a team-trainer, and train all of the new hires in my department. I had been hoping for a while to get full-time hours, and I'm so glad I have them now. It's a lot easier for me to pay my bills, and I'm less stressed out. I'm glad we're able to offer other associates the hours they need too, so we can keep our good people.

Ernie Guisande – Golf Smith

I used to work at Men's Warehouse, and we sometimes wouldn't get our schedule until 3 days before the start of the week. It would come out on a Wednesday for our week starting on Sunday. And even then, they would change my schedule after publishing it all the time. On top of that, I would get scheduled for mandatory on-call shifts all the time, so I didn't know if I was going to be working or not. It was nearly impossible to plan time to go see my son, Diego.

Toward the end of that job, I tried giving my manager more limited availability so I could see my son more often, and be able to get another job to pay the bills, but they cut my hours back from 30 to 18. If you buck the system they cut your hours. I was living in Hayward at the time, and they would schedule me for 6 hours shifts, and it just almost wasn't worth the cost and time to come into the city for a short shift.

When I started working at Golf-Smith, things were different. They're following the Retail Workers' Bill of Rights more. I got more hours because they offer any additional hours to their existing employees. I almost never get scheduled for on-call shifts, and they respect my availability so I can work at my second job on weekends, and make plans to see my son on my day off.

I have a routine now, which I never had before because my schedule was so unreliable. I've been able to plan days to go to the gym, or go play golf with my son. I can schedule my doctor's visits easier, and take care of my domestic duties at home. Working more hours allows me to have three square meals a day, pay my utility bill on time, and pay my whole cell phone bill all at once instead of having to pay some now and pay some later. My life is more manageable now.

My son started college at the Cal Maritime Academy this Fall, and RWBOR meant I was able to see him as much as possible before he started school and goes out to sea for months at a time. I went to his sports games, and he became a better student, and he got into the International Business program at Cal Maritime.

I'm sure it makes my managers happy too, because before I used to call out at least once every two months. Now I never call out, so the salaried employees don't have to cover for me. I'm sure that makes my managers happy. They can depend on me for the schedule they give me, so they can have a life too.