

# SCHEDULING ON THE CUTTING EDGE

## Implementation of San Francisco's First-in-the-Nation Fair Scheduling Law

---

June 2017 | Liz Ben-Ishai, Emilytricia Lopez Marchena & Zoe Ziliak Michel



## Introduction

Nationwide, millions of workers struggle with volatile schedules. The problem is especially prevalent in the retail industry. Oftentimes, workers receive little notice of their schedules; are called in at the last moment or have shifts cancelled unexpectedly; experience weekly changes to their hours, both in quantity and timing; and struggle to get enough hours to make ends meet. In 2014, the San Francisco Board of Supervisors passed two ordinances, the Formula Retail Employee Rights Ordinances (FRERO), to address this problem for local retail workers. FRERO became operative in October 2015, and final rules took effect in March 2016.<sup>1</sup> The laws, which are described by advocates as a Retail Workers Bill of Rights (RWBOR), established first-in-the-nation protections for retail workers, guaranteeing advance notice of their schedules, compensation for last-minute changes, and greater access to additional hours.

San Francisco has led the charge in establishing local labor standards. Its Office of Labor Standards Enforcement (OLSE) has enforced prevailing wage, minimum wage, paid sick days, and health insurance ordinances for nearly a decade, with its portfolio recently growing to include fair scheduling and parental leave laws, among others. Advocates and organizers in the city have considerable experience doing outreach on these laws to vulnerable workers, as well as helping them file claims or resolve issues when their rights are violated. With their combined experience, advocates and government officials in San Francisco are well-situated to ensure FRERO is effectively enforced. Nonetheless, implementing a new law is challenging, and it can take time and resources to spread the word to employers and workers.

In this report, we examine data from a small community-based survey of 241 San Francisco retail workers who are covered by the ordinances.<sup>2</sup> We also provide narrative accounts, gathered from two focus groups, of scheduling practices in the city. Key findings from the survey include:

- **Predictable schedules make a difference in workers' lives.** Many workers say that getting their schedules in advance helps them plan other parts of their lives.
- **FRERO awareness is low.** Few surveyed workers were aware of these laws and their provisions.
- **Few workers are being compensated for last-minute schedule changes.** While some workers have received predictability pay—the compensation employers must provide workers when their schedules are changed with less than a week's notice—the vast majority have not.
- **Most workers are not receiving greater access to hours.** A majority of workers report wanting more hours; however, their employers may not be complying with the requirement to offer available hours to current workers before hiring more employees.
- **Workers struggle with scheduling challenges that the law does not address.** Many workers have been scheduled outside their availability or experienced weekly changes in their total number of hours.

In addition to highlighting findings from our survey and focus groups, we make recommendations to increase employers' compliance and raise awareness among workers. These include:

- **Dedicating OLSE staff time to FRERO enforcement.** Staffing focused on FRERO would prioritize the scheduling law. In the first years of implementation, workers and employers may find the new laws challenging to understand. This necessitates more outreach, technical assistance, and enforcement.
- **Stepping up OLSE outreach efforts.** San Francisco's OLSE should increase outreach to workers, replicating effective tactics from their outreach around minimum wage and paid sick days.
- **Strengthening and funding community-enforcement agency partnerships.** OLSE should devote further resources to supporting the collaborative of worker centers and community-based organizations that are best equipped to reach vulnerable workers and support FRERO enforcement.
- **Proactively enforcing FRERO to deter violations.** Rather than solely relying on employee complaints, OLSE should proactively enforce the laws, using information from community partners, employers, and the public to target employers that are likely to be out of compliance.

- **Potentially expanding FRERO and amending other scheduling laws.** Policymakers should consider public policies that can address additional scheduling problems. For example, San Francisco could expand its Family Friendly Workplace Ordinance.

These findings and recommendations implicate not only San Franciscans; they are relevant to workers, employers, and government officials across the country. Since San Francisco passed FRERO, similar laws have passed in Seattle, Washington; Emeryville, California; and New York City. Further, more than a dozen states and cities across the nation are considering bills to improve scheduling practices.<sup>3</sup> As more and more fair scheduling laws are enacted, it's critical to ensure they're effectively implemented and truly help workers.

## Background: Volatile Work Scheduling

Workers across the country are organizing to improve their jobs by stabilizing work schedules, raising wages, gaining paid sick and safe time, preventing wage theft, and resisting criminal background checks. For years, many workers—particularly those in the service industry—have struggled with erratic schedules, inadequate hours, and lack of advance notice of their shifts. However, these problems only recently gained public scrutiny. Major news stories have chronicled the experiences of workers at such companies as Starbucks, Jamba Juice, Victoria Secret, and others, highlighting the intense strain that volatile schedules place on workers and their families.<sup>4</sup>

### Prevalence

According to recent analysis of national data, roughly 17 percent of the workforce experiences unstable work shift schedules, including on-call, irregular, split, and rotating shifts.<sup>5</sup> Further, University of Chicago's analysis of National Longitudinal Survey of Youth (NLSY) data found that among hourly workers ages 26 to 32, nearly half (47 percent) received one week or less advance notice of their schedules.<sup>6</sup> Service workers were the most likely (48 percent) to experience short notice.<sup>7</sup> Eighty percent of part-time hourly workers experienced fluctuations in total hours, which varied 11 hour per week on average. Workers' hours ranged from a mean of 17 hours per week to 28 hours per week.<sup>8</sup>

Part-time workers are disproportionately affected by unfair scheduling practices. Many of them are working part time out of necessity, not choice. A recent study from the Economic Policy Institute (EPI) finds that involuntary part-time work—people who are working part time but want full-time employment—remains at “recessionary levels.” Since 2007, the year before the recession, the number of involuntary part-time workers has increased by 2 million. In fact, the EPI report finds that involuntary part-time work is increasing 18 times faster than work overall. Service workers, Black and Latino workers, and prime-age (25-54) workers constitute a disproportionate share of involuntary part-time workers.

California workers report high levels of instability in their work schedules, too. In a poll of California workers across industries, nearly one-third received one week or less notice, and one-quarter received *three days or less* notice.<sup>9</sup> Over half of all workers—and 63 percent of part-time workers—experienced variable hours per week.<sup>10</sup> Further, 43 percent of part-time workers said they worked *fewer* hours than preferred during at least one of the past four weeks.<sup>11</sup> Retail workers are more likely than others to work part time involuntarily. Among California retail workers, Black and Latina women are disproportionately affected.<sup>12</sup>

## Impact

A growing body of research demonstrates the strain that work schedule instability places on workers and their families. Unable to predict their earnings from week to week, workers with volatile schedules often struggle to plan their budgets and pay their bills. Planning transportation to work, scheduling classes and training needed to advance their careers, and holding critical second jobs is extraordinarily difficult for workers with little knowledge of—and control over—their schedules from week to week.<sup>13</sup>

Volatile work schedules can have a major effect on workers' and families' economic stability. In a 2015 survey by the Federal Reserve, 32 percent of respondents said their monthly income varies either occasionally or frequently. Among those who reported income volatility, the largest share (43 percent) attributed this to irregular work schedules.<sup>14</sup>

Oftentimes, working parents who experience volatile schedules struggle to find and maintain child care arrangements that accommodate unpredictable shifts.<sup>15</sup> Moreover, workers who rely on child care subsidies may have difficulty maintaining their eligibility.<sup>16</sup> With the crippling high cost of child care around the country, loss of eligibility can be the difference between keeping one's job or being forced to leave work and become economically unstable. Finally, an analysis of the national General Social Survey (GSS) finds that workers with irregular, nonstandard schedules are very likely to experience severe work-family conflict. More than one-quarter of workers with irregular or on-call schedules report "often" experiencing work-family conflict.<sup>17</sup>

Taken together, the evidence demonstrating the prevalence and impact of volatile work schedules makes a strong case for effective public policies that reduce damaging scheduling practices. Fortunately, San Francisco has taken the lead with a set of policies that could make a real impact on retail workers' lives.

## Overview of San Francisco's Formula Retail Employee Rights Ordinances (FRERO)

San Francisco's fair scheduling laws apply to employees of "Formula Retail Establishments," a category of employers unique to San Francisco. These are chain stores with at least 40 establishments worldwide and 20 or more employees in San Francisco. These companies' janitorial and security contractors are also covered by FRERO. Key provisions include:<sup>18</sup>

- **Access to hours:** Before hiring new workers, employers must offer any extra work hours that become available to qualified part-time employees. This offer must be made in writing.
- **Employee retention:** If the establishment is sold, the employer that purchases the company must retain for 90 days current employees with at least 6 months tenure.
- **Estimate of schedule:** Employers must provide new employees with a "good-faith" estimate of the number of hours/shifts per month as well as days and times.
- **Advance notice:** Employers must post schedules two weeks in advance.
- **Predictability pay:** If the employer makes changes to an employee's schedule with less than seven days' notice, the employer must pay the worker for an additional one to four hours (depending on notice and shift length) at the worker's usual rate.
- **On-call pay:** If employees are required to be "on-call" but are not called in, the employees must be paid for at least 2-4 hours at their usual rates.
- **Part-time parity:** Part-time employees must be treated equitably to full-time employees with regard to starting hourly wages, employer-provided paid and unpaid time off, and promotions.
- **Notice:** Employers must post a notice about the law in the workplace.
- **Retaliation:** Retaliation is prohibited.

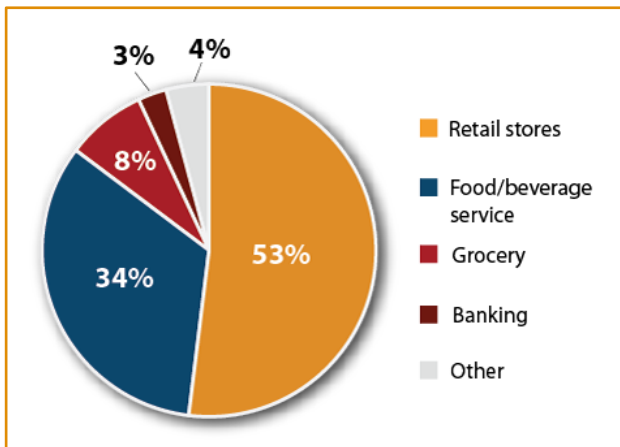
# Demographics

The small sample of workers surveyed for this report were racially and ethnically diverse, worked in a variety of “formula retail” establishments, earned low wages on average, and fell into a wide range of age groups.

Most but not all respondents answered all demographic questions. This is because there were two parts to the survey. The first part was designed by San Francisco’s OLSE and the community collaborative charged with education and outreach to support enforcement of the city’s labor laws. The second part was designed by CLASP and Young Workers United (YWU). The first part had 241 respondents; 91 of those 241 respondents took the second part also. There were some additional demographic questions in the second part of the survey. For more information on the survey and methods, see Appendix I.

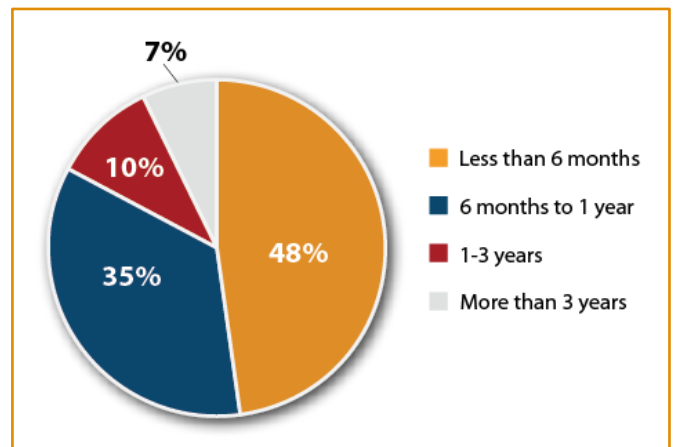
## Place of employment

Workers in the survey were employed in a variety of establishments covered by the law (*all percentages are rounded to the nearest whole number, so totals may not add to 100*).



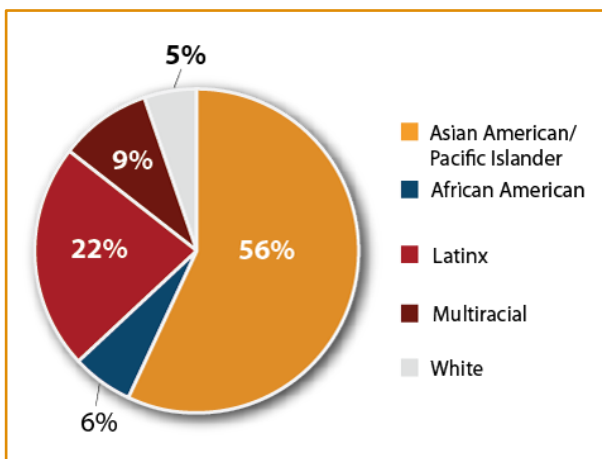
## Tenure

Workers reported being with their current employer for varying lengths of time.



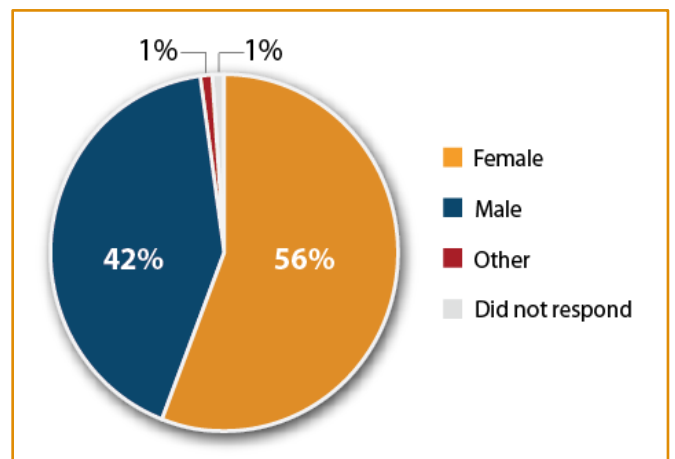
## Race

In addition to these racial groups, the sample included one African, one Middle Eastern, and one Native American respondent.



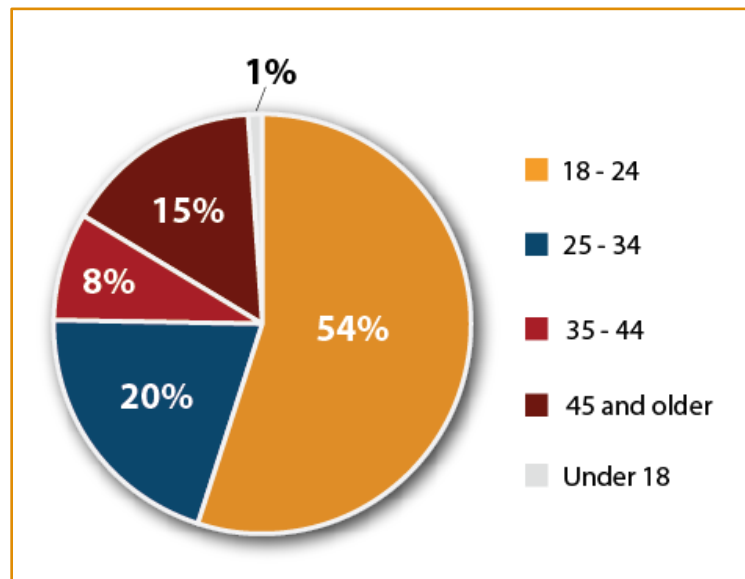
## Gender

The majority (56 percent) of respondents identified as female. One percent did not respond.



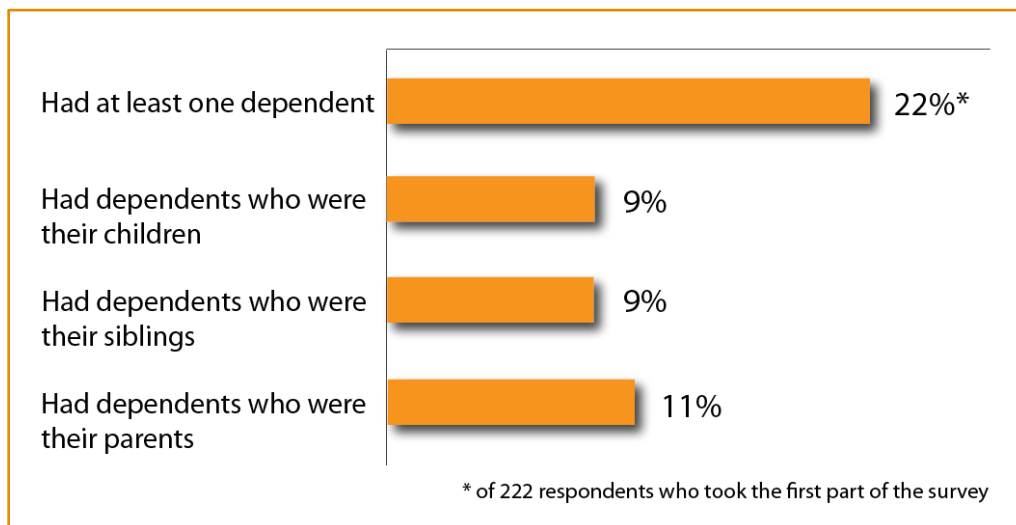
## Age

Respondents fell into several age categories. The majority were young adults (ages 18-24), while 2.5 percent did not respond.



## Dependents

In the first part of the survey, respondents were asked whether they had any dependents. In the second part, they were asked to specify the types of dependents in their lives. Some respondents had multiple types of dependents.



## Hours per week

On average, respondents worked 29 hours per week. The number of hours workers reported ranged from 4 to 61 hours per week, with a standard deviation of 10 hours per week.

## Wages

The average wage of respondents (excluding any tips) was \$14.24 per hour. Hourly wages ranged from \$10 to \$25 per hour, with a standard deviation of \$2.08 per hour.



# Findings

Below, we discuss findings from our survey. These are supplemented with narratives from focus group participants, who discussed their personal experiences.

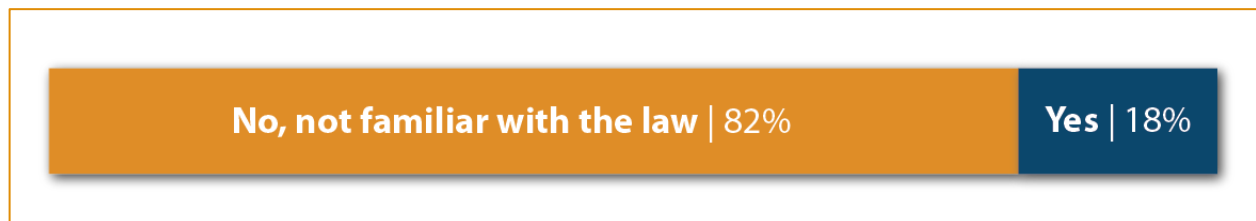
## *Many workers are happy with employer scheduling practices*

The majority (93 percent) of respondents reported that getting their schedules in advance has helped them better plan their personal lives. In addition, 83 percent of workers said they were generally happy with scheduling practices in their workplace. However, it's important to note that satisfaction varied by race. Just 12 percent of AAPI workers and 8 percent of White workers reported being unhappy with scheduling practices. Dissatisfaction was far higher among African American (33 percent), Latinx (20 percent), and multiracial (23 percent) workers.<sup>19</sup>

## *Awareness of the law is very low*

Despite considerable media attention in San Francisco and nationwide, a majority (82 percent) of workers said they weren't familiar with the law and its provisions. Awareness was universally low regardless of race, tenure in the job, and other variables.

### **Were workers familiar with the law prior to this survey?**



In focus groups, a few workers reported hearing about the law in passing, but most didn't know the details. One worker heard about it from an advocacy group with which she volunteered. Conversely, another worker learned about the law from their former employer (Apple Store). The worker described the store's process for educating workers: "After it passed, [when I was] at Apple, they did have a sit down with everyone who was coming into work to talk about what it means for everyone. They [...] talked particularly about predictability pay." The worker described the meeting in positive terms: "It was really open and really honest. The transparency was nice and [...] they were really enthusiastic about being able to offer these benefits to everyone, not just full-time workers. [...] They'd been pretty good, even before the law was passed, in getting people who were part-time the hours that they need."

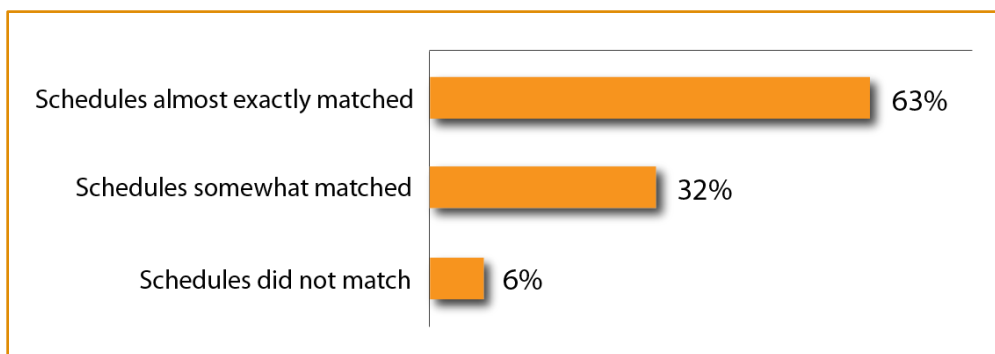
## *Employers' schedule estimates are meaningful*

Under the law, employers must give newly hired workers a written estimate of their monthly schedules, including the minimum number of hours and timing of shifts. While there is no penalty for providing an inaccurate estimate, workers said their employers' estimates were relatively accurate.

Two-thirds of workers said they received such an estimate. Significantly, workers with less than six months on the job were *more likely* to receive an estimate, because they were covered under the law. Conversely, workers hired before FRERO went into effect were *less likely* to receive an estimate because the law didn't cover them. Among workers who received an estimate, 63 percent reported that their actual schedules matched almost exactly. Another 32 percent said their actual schedules somewhat matched the estimates. Less than 6 percent said the estimates were highly inaccurate.

These findings are encouraging; they prove that employers are capable of predicting, with some degree of accuracy, when and for how many hours employees will be scheduled each month.<sup>20</sup>

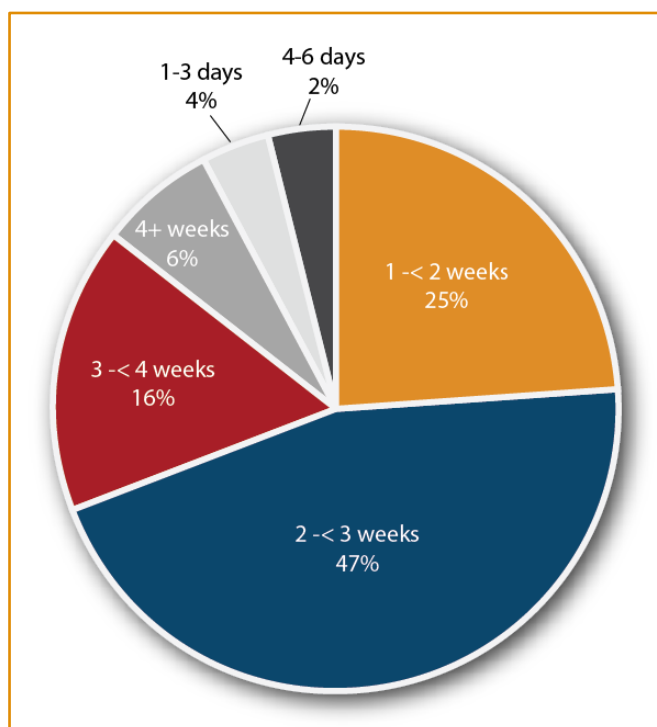
### Did workers' schedules match the employer estimate?



### *The majority of workers receive their schedules two weeks or more in advance*

Nearly 70 percent of workers who responded to a question about advance notice reported receiving their schedules two weeks or more in advance.<sup>21</sup> However, despite the law's two-week notice requirement, a significant percentage (30 percent) of workers said they received less notice, with a small number receiving less than one week. Because of the wording of a question about how many days' worth of schedule respondents received, it is difficult to discern the actual rate of compliance among respondents' employers. Among the 70 percent who met the two-week requirement of notice, we don't know how many were providing employees with two weeks' worth of their schedules.

### How much notice did workers receive from their employers?





## Few workers receive predictability pay

The law is intended to limit last-minute schedule changes, which wreak havoc on workers' lives. Predictability pay disincentivizes the practice by compensating workers when they're required to be flexible to meet their employers' needs.

Unfortunately, few workers who responded to the survey said they were receiving predictability pay. Within the past month, one-quarter of workers had experienced schedule changes or canceled shifts with less than seven days' notice. Just 20 percent of these workers reported receiving predictability pay. Additionally, nearly half of workers had been asked to work an unscheduled shift with less than 7 days' notice. Less than a third of those workers received predictability pay.

In a focus group, a former Starbucks worker said she was constantly "asked to come in early or stay late." The manager gave no advance notice of such changes. "She'd just ask, 'how long would it take you to get here?'" The pressure to accept these changes was strong. "I felt like I had to," said the worker. Refusing a changed shift resulted in subtle forms of retaliation. "She didn't say 'I'll like you better [if you accept the shift],' but it was implied." Moreover, the worker never once received predictability pay for these schedule changes, which were often made at the last moment. While this worker's challenge was overscheduling, she noted that one of her coworkers received fewer hours after rejecting a last-minute shift.

Focus group participants who previously worked at Vans and Sephora also reported being asked to come in early or stay late. In both cases, the workers did not receive predictability pay for last-minute changes.

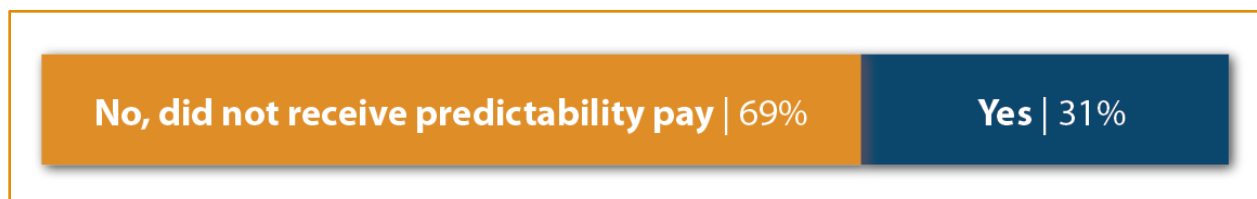
The predictability pay provisions include a number of exceptions, which may create confusion for both employers and workers. Workers may be unsure of when they are owed such payments, limiting their ability to exercise their rights. One way to address this would be to limit the number of exceptions in the law for when a worker should receive predictability pay.

### Did workers receive predictability pay when their schedules changed—or shifts were cancelled—with less than 7 days' notice?



N=59

### Did workers receive predictability pay when they were asked to work on an unscheduled day/time with less than 7 days' notice?

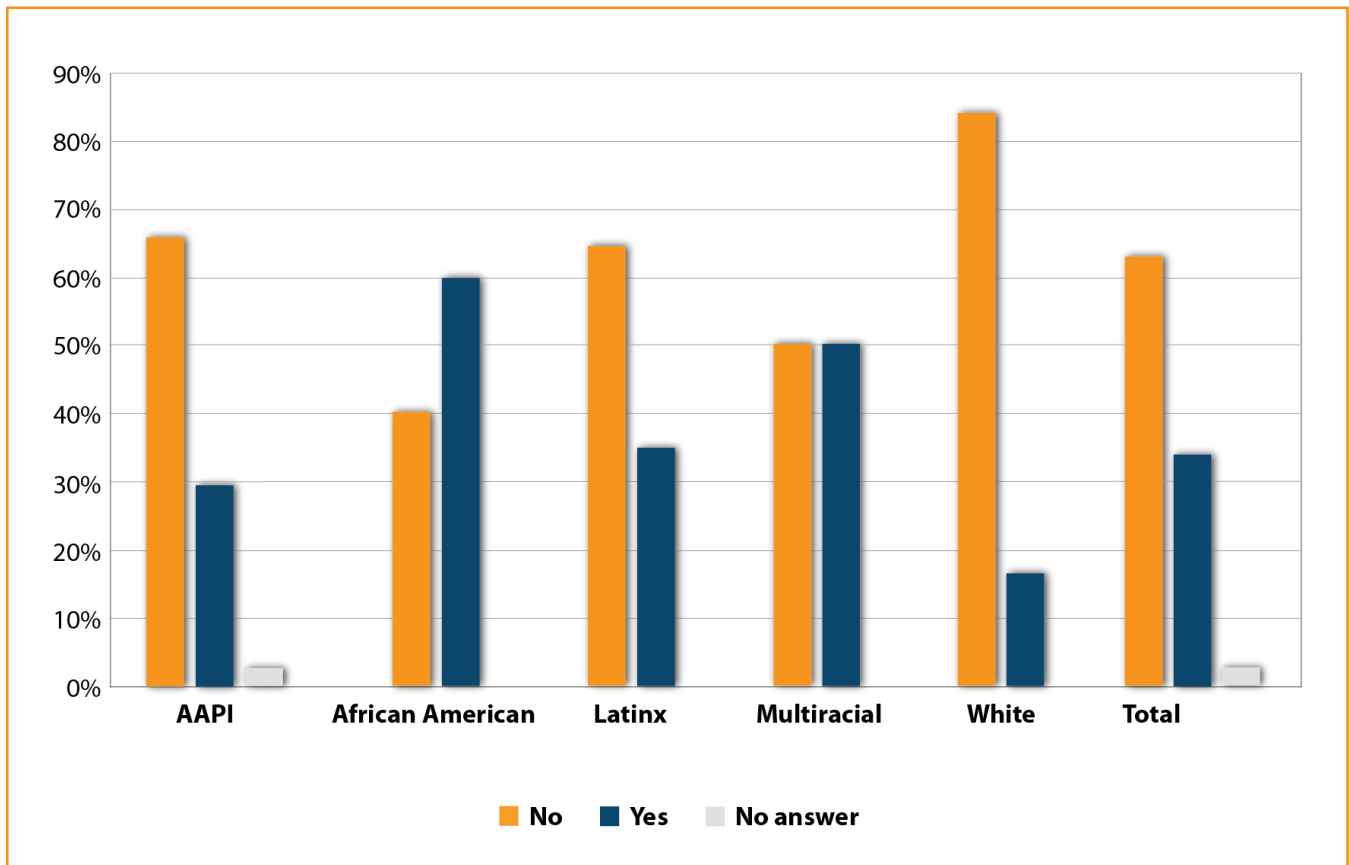


N=102

## Workers want more hours but struggle to get them

The workers in our survey worked an average of 29 hours per week. With an average wage of \$14.24 per hour, they reported need more hours to make ends meet. More than one-third of workers reported wanting more hours at their current jobs. Within our sample, workers' stated desire for more hours varied across racial groups. African American (60 percent), Latinx (35 percent) and mixed-race (50 percent) workers were more likely to report wanting more hours than their AAPI (30 percent) and White (17 percent) counterparts.

### Did workers want more hours at their current jobs?



N=241

Workers in our focus group shared their experiences of inadequate hours. A former Container Store employee described how sales' ebb and flow affected the number of hours she received: "Whenever the stores isn't doing so well [...] they would just put me on stock," as opposed to her usual combination of sales and stock. She explained, "I was part-time, but when the Container Store was doing good, then I would be working almost full time, 5 days a week, 8 hours a day. When it was not doing well, my hours would be drastically reduced to 16." She often sought a second job during these down times. The worker explained that the only full-time employees in the store were managers.

According to a Sephora employee, managers would sometimes consult workers before reducing their hours. However, in other cases, their hours were cut without notice and reallocated to more senior employees. The worker also reported favoritism when it came to scheduling workers for additional hours.

At the same time, 70 percent of workers said their employers hired new workers to do similar jobs to theirs. And despite FRERO's "access to hours" provision, which requires employers to first offer additional hours to current part-time workers, many workers said they were never offered those hours. Among workers who said their employer hired others in the last month, 69 percent said they were not offered additional hours.

In our focus groups, many workers said their stores were understaffed. This left them feeling overworked and frustrated customers. The former Container Store worker described her store as "vastly understaffed" and said that when employees were swamped, they often had to "manage customer anger for not being able to respond [to the customers' requests]."

### ***Additional scheduling challenges remain***

Advance notice of schedules can help workers plan for, and reduce, the effects of volatile scheduling. However, the requirement doesn't prevent employers from scheduling workers for 8 hours one week and 35 the next. For example, more than half (53 percent) of surveyed workers reported that their number of hours fluctuated from week to week. For some workers, this may not be a problem. But for many, the ups and downs of volatile scheduling make economic survival and addressing non-work needs difficult. The former Container Store employee said she scheduled doctor's appointments for times when her hours were cut back. "You kind of had to plan life around times when business was slower," she explained.

Additionally, FRERO doesn't mandate employers to respect workers' scheduling requests. Consequently, many workers reported that their preferences were disregarded. In the survey, 31 percent said they'd been scheduled outside their stated availability.

***More than half of surveyed workers said the number of hours they worked changed from week to week***

In our focus groups, workers explained how they were hurt when their scheduling needs weren't met. One former Sephora employee said his availability was not respected. He was scheduled outside his available hours and essentially "forced to leave the job" because of the mismatch. The former Starbucks worker described a conflict with her class schedule that went unresolved. "I was taking a class on Monday nights, so I asked [not to] work on Mondays because I can't work that many hours and then go to a three-hour class," she explained. "But [the manager] was still scheduling me on Mondays because it was her busy day. She would schedule me eight hours. So, I never got to go to that class because I was tired."

## **Recommendations**

Based on findings from the survey and focus groups, as well as research on labor standards enforcement, we make the following recommendations.

### ***Dedicated staff time at OLSE for FRERO enforcement***

Staffing specifically focused on FRERO would prioritize the scheduling law amidst the agencies' many other priorities. As noted, this law may be particularly challenging for workers and employers to understand in the early years of implementation, necessitating increased availability of technical assistance and outreach as well as enforcement.

### ***OLSE should step up outreach efforts***

Although FRERO has been in effect for more than one year, the city has yet to engage in extensive outreach efforts, such as bus advertisements, leafleting, etc. The city continues to work closely with the worker center collaborative that gathered data for this survey, as well as undertake outreach to particularly vulnerable workers,

but far more outreach is needed. The city has done far more to raise awareness about the minimum wage increase. At least initially, FRERO is considerably more difficult for employers and workers to understand, making increased outreach even more important. Moreover, since FRERO targets a sector that has relatively high turnover, ongoing outreach is critical to ensure worker awareness.

### ***Bolster and fund community-enforcement agency partnerships***

The number of laws OLSE enforces has grown over the years; in turn, the collaborative of worker centers and community-based organizations that work with OLSE to raise awareness is now responsible for doing outreach about a greater number of complex laws. This takes more time, training, and staffing. Although some new funds were allocated to the collaborative in order to survey and do outreach, ongoing funding is needed to prioritize FRERO-specific outreach. Advocates and experts agree these groups are best equipped to reach vulnerable workers and support enforcement of labor standards.<sup>22</sup>

### ***Proactively enforce the law to deter violations***

Research shows that workers employed by businesses that are most likely to violate labor laws are least likely to file complaints.<sup>23</sup> OLSE should proactively enforce the law, using information from community partners, employers, and the public to target employers that are likely to be out of compliance. Strong enforcement actions against “problem” employers, as well as employers in high-violation industries, could have a profound effect on future compliance. Moreover, the retail workforce has unique features, including a more transitory workforce and workers who are employed at multiple outlets for a given retailer. That increases the importance of strategic, directed enforcement that doesn’t hinge on complaints.

### ***Consider expanding some parts of FRERO and amending other scheduling-related laws***

Policymakers could consider public policies that can address other scheduling challenges. Two possibilities include:

- Expanding San Francisco’s Family Friendly Workplace Ordinance to cover all workers, not just those with family obligations.<sup>24</sup> Other cities have passed, or are considering, scheduling laws that include a “right to request” for all workers covered by the law. While this wouldn’t guarantee employers’ responsiveness to scheduling requests, it could foster a culture change by establishing formal processes for requests and responses. Moreover, workers would be protected workers from retaliation.<sup>25</sup>
- Setting a minimum threshold for the number of hours employers must schedule their employees over specified period of time. For example, a proposal currently under consideration in New York City would require retail employers to provide part-time workers with a minimum of 20 hours over a 14-day period.<sup>26</sup> This doesn’t eliminate fluctuations in hours, but it does set a minimum that workers can count on. The question of where to set the ideal threshold should be further explored.

## Conclusion

San Francisco has been at the forefront of municipal labor standards for more than a decade. With the passage of FRERO, it continues to blaze a trail for the rest of the nation. FRERO, or the Retail Workers' Bill of Rights, establishes standards that could bring more stability and predictability to the lives of thousands of the city's workers, including some of its most vulnerable. This report, which draws on a relatively small community-based survey and focus groups, highlights the laws' promise—workers see major benefits to advance notice and other aspects of FRERO—and the need to increase awareness to ensure better enforcement.

Many states and cities are likely to pass fair scheduling laws in the coming years. San Francisco can lead the way for other jurisdictions by increasing FRERO outreach and enforcement, bolstering partnerships with community-based organizations and worker centers, and proactively enforcing the law.

## Acknowledgments

**Report authors:** Liz Ben-Ishai, Emilytricia Lopez Marchena, and Zoe Ziliak Michel

**Communications and copyediting:** Andy Beres

**Surveying and outreach:**

- Y.W.U.—Emilytricia Lopez Marchena, Ivy Bennett, Ilana Master
- C.P.A.—Lucia Lin, Yulu Liu, Ci Zeng, Van Sam
- S.O.M.C.A.N—Andrew Rogge, Jason Ildefonso, Maverick Ruiz, Tetet Naval, Tina Schauf-Bajar, Raquel Redondiez and TJ Basa.

**Funders:** Ben & Jerry's Foundation, Ford Foundation

CLASP and YWU are grateful to CPA and SOMCAN for their hard work collecting data for the first part of the survey and for their generosity in sharing it.

Thanks to the San Francisco Office of Labor Standards Enforcement (OLSE) for supporting the efforts of the collaborative in conducting the survey.

In particular, many thanks to OLSE Deputy Director Seema Patel for her unwavering support. She provided extensive in-depth trainings on FRERO to the collaborative and gave the collaborative organizations the opportunity to give presentations to the youth commission about our outreach efforts. She has held primary responsibility for processing claims on FRERO violations for the entire city of San Francisco.

## Appendix I: Methodology

The study includes a survey and two small focus groups. There were two parts of the survey. The first part was designed by the Workers' Rights Community Collaborative and the San Francisco Office of Labor Standards Enforcement. The community collaborative was responsible for education and outreach to support the enforcement of San Francisco labor laws. The community collaborative includes Young Workers United (YWU), Chinese Progressive Association (CPA), and South of Market Community Action Network (SOMCAN).

All three groups conducted outreach and interviews to gather the data for the first part of the survey. The second part of the survey was designed by CLASP and YWU. YWU conducted outreach and interviews to gather data for the second part of the survey. There were 241 respondents who took the first part of the survey; 91 of those 241 respondents took both parts of the survey. Data was collected from 256 respondents. We eliminated respondents who had worked for their employers for less than one month.

OLSE shared the findings from the first part of the survey in response to a public records request. As a result of confidentiality requirements to which OLSE adheres when releasing information for public records requests, we did not have date of hire information for all employees; therefore, some workers with very short tenures may have been included in the analysis. We also eliminated a few people who worked for businesses not covered by the law.

CPA assembled a separate report for OLSE based on the data gathered from the first part of the survey.

### *Data collection*

This was a community-based survey that served the dual purpose of educating workers and gathering data. YWU, CPA, and SOMCAN collectively surveyed and did outreach in Chinese, Spanish, Tagalog, and English languages. Data collection for both parts of the survey was performed in the same way, but only YWU administered both the first and second parts of the survey, whereas the other organizations administered just the first part. The survey used a convenience sample. Surveyors approached workers at or near retail store locations when workers were on the job, on breaks, or leaving or arriving for their shifts. They visited worksites concentrated in several high-business districts of the city, including Westfield Mall, Potrero Shopping Center, Union Square, and Stonestown Mall. Due to the challenges of finding workers willing and able to respond to the survey, surveyors did not target specific demographic groups, instead surveying those willing to participate. Thus, the workers surveyed may not be representative of all workers in San Francisco. The survey was administered verbally with surveyors recording the responses on behalf of the participants.

Surveys were also administered in colleges, high schools, and ESL classes and at community centers. Most of the surveys distributed in these areas followed presentations on FRERO. Depending on the time allotted for the presentation, surveys were either distributed in the beginning to screen which workers would be covered under FRERO or handed out to workers at the end of the presentations. City College's Teachers Union, the American Federation of Teachers 2121, supported these outreach efforts by helping to coordinate these presentations. They offered faculty opportunities to invite organizations to present and survey in classes, including offsite ESL classes, in different community spaces or schools. San Francisco State University also had many faculty from Ethnic Studies, Political Science, and Metro Academy that invited organizations in the community collaborative to present and survey. Young Workers United also contacted San Francisco Unified School District (SFUSD) staff from SF International High School's Wellness Center and Mission High School's Peer Resources team to coordinate presentations. As a result of conversations held during or after these presentations, workers were also referred to the organizations in the collaborative for further assistance and support.

Finally, some surveys were collected from workers referred by the three groups and other community partners. They were filled out by members of the organization, workers that were referred, or family and community members that qualified to be covered by the law.

CLASP and YWU also held two small focus groups, each of which included three retail workers covered by the law, to hear extended narratives about the workers' experiences with work schedules and implementation of the law. Participants in the focus groups were racially diverse. When workers answered the survey, they were asked if they would be willing to participate in a focus group. We followed up with those who expressed interest; those who were still interested and who were available participated in subsequent focus groups. The focus groups were semi-structured, based primarily on the focus group protocol (see Appendix III), which had 25 questions. When the conversation flowed naturally to a topic covered in a subsequent question, that question was later omitted. One focus group was recorded and transcribed; for the other, an observer took detailed notes. We analyzed the transcription and notes to determine the common themes and extract representative quotes.

## Appendix II: Survey

2016 FORMULA RETAIL EMPLOYEE RIGHTS SURVEY (Part 1)		
1.	Who is your employer?	
2.	What type of work site are you employed at (store, restaurant, or office)?	
3.	Date of Hire:	Job Title: Rate of Pay:
4.	How many hours do you usually work a week?	
5.	Do you want to work more hours at this job? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6.	When you were first hired at this job, did your employer give you a written estimate of the expected minimum number of scheduled shifts you'd have each month, along with the days and hours of those shifts? <input type="checkbox"/> Yes <input type="checkbox"/> No	
7.	How far in advance do you receive your schedule?	
8.	When you receive your schedule, how many days' worth of your schedule do you receive? a. a schedule for work for the <u>next 1 to 7 days</u> b. a schedule for work for the <u>next 7 to 14 days</u> c. a schedule for work for the <u>next 14 or more days</u> d. other _____	
9.	In the past six months, has your employer ever <u>cancelled</u> or <u>changed</u> your shift with less than 7 days' notice? <input type="checkbox"/> Yes <input type="checkbox"/> No  (9a) If YES, did you receive any extra pay – in addition to your regular wages – to compensate for this cancellation or change in shift with less than 7 days' notice (this is sometimes called "predictability pay")? If YES, describe.	



10. In the past month, has your employer ever asked you to come in to work on a day or time you were not scheduled to work with less than 7 days' notice?

☐ **Yes**   ☐ **No**

(10a) *If YES, did you receive any pay for these changes with less than 7 days' notice (sometimes called "predictability pay")? If YES, describe.*

11. Does getting your schedule in advance help you plan out your life outside of work better?

☐ **Yes**   ☐ **No**

12. Are you generally happy with scheduling practices at your workplace?

☐ **Yes**   ☐ **No**

13. In the past month, has your employer hired new workers to do a job that is similar to the job you do?

☐ **Yes**   ☐ **No**

14. Were you offered more hours before the new workers were hired? *If YES, describe.*

☐ **Yes**   ☐ **No**

15. How would you describe your race or ethnicity?

16. How would you describe your gender?

17. How old are you?

- a. under 18 yrs
- b. 18-24 yrs
- c. 25-34 yrs
- d. 35-44 yrs
- e. 45 yrs & older

18. Do you care for any dependents (children, parents, etc.)?

## 2016 FORMULA RETAIL EMPLOYEE RIGHTS SURVEY (Part 2)

### CLASP/Young Workers United Questions

1. This survey is part of a study on a new law being implemented in San Francisco as of March 2016 called the Formula Retail Employee Rights Ordinances (FRERO), also known as the Retail Worker Bill of Rights. This law gives retail workers the right to 2 weeks of advance notice for their schedules, extra pay when their schedules are changed at the last moment, and several other rights. Have you heard of this new law in San Francisco? *If YES, how did you hear about it?*

☐ Yes   ☐ No

2. Do the numbers of hours you work vary from week to week?

☐ Yes   ☐ No

3. In general, if your employer provides a written estimate of your schedule, how closely does your schedule end up matching the initial schedule you received?

☐ Not at all   ☐ Somewhat   ☐ Almost exactly

If your schedule doesn't match the estimate you receive, is it because of changes you requested?

☐ Yes   ☐ No

4. In the past month, has your employer ever cancelled or changed your shift, or asked you to come in to work on a day or time you were not scheduled to work with 7 or more days' notice? *If YES, describe.*

☐ Yes   ☐ No

5. In the past month, has your employer informed you that additional regularly scheduled hours have become available and given you or your coworkers the opportunity to accept them?

☐ Yes   ☐ No

a. *If YES, how did your employer inform you? (Phone, email, text, online, posted, etc.)*

b. *If YES, how many hours were offered?*

c. *If YES, did you accept the hours? Why or why not?*

6. Are you currently enrolled in school or a job training program?

☐ Yes   ☐ No

7. Do you have dependents who are:

a. Your own children   ☐ Yes   ☐ No

b. Siblings   ☐ Yes   ☐ No

c. Parents   ☐ Yes   ☐ No

d. Others: \_\_\_\_\_

8. Does getting your schedule in advance help you:

a. Plan your class schedule   ☐ Yes   ☐ No   ☐ Not applicable

b. Plan for child care/dependent care needs   ☐ Yes   ☐ No   ☐ Not applicable

c. Plan your budget   ☐ Yes   ☐ No   ☐ Not applicable

d. Plan your shifts for a second job   ☐ Yes   ☐ No   ☐ Not applicable

e. Other: \_\_\_\_\_

9. Has your employer every scheduled you outside your availability?

☐ Yes ☐ No

*If YES, did it affect your:*

- a. Class schedule/academics ☐ Yes ☐ No ☐ Not applicable
- b. Child/dependent care needs ☐ Yes ☐ No ☐ Not applicable
- c. Budget ☐ Yes ☐ No ☐ Not applicable
- d. Shifts for a second job ☐ Yes ☐ No ☐ Not applicable
- e. Other: \_\_\_\_\_

10. Does your employer offer raises? ☐ Yes ☐ No

*If YES:*

- a. When was the last time you received a raise? Month \_\_\_\_\_ Year \_\_\_\_\_
- b. What was the raise increase you received?
- c. Have you received other previous raises? ☐ Yes ☐ No
- d. *If YES to question C, fill in the following information:*

**Previous raises**

Increase: \_\_\_\_\_ Month: \_\_\_\_\_ Year: \_\_\_\_\_

Increase: \_\_\_\_\_ Month: \_\_\_\_\_ Year: \_\_\_\_\_

11. Does your employer offer bonuses or any other monetary incentives (e.g., gift cards, holiday bonus checks, commission, additional pay)?

☐ Yes ☐ No

*If YES:*

- a. What are the incentives?
- b. Do these incentive motivate you on the job? ☐ Yes ☐ No

12. Have you ever felt retaliated against for not reaching personal sales goals?

☐ Yes ☐ No

*If YES, how has your employer retaliated against you (e.g., cut your hours, disciplinary action, changed your schedule)?*

13. Do you feel adequately compensated for your work?

☐ Yes ☐ No

14. What form of transportation do you use to get to work (e.g. walking, SFMTA, BART, car, bike)?	
15. How long is your commute to work?	
16. What is the round trip cost of your daily commute to work?	
Your Name:	
Email:	Phone:
Home Zip Code:	Worksite Zip Code:

## References

- <sup>1</sup> San Francisco is both a city and a county. For simplicity, we refer to it as a city for the remainder of the report.
- <sup>2</sup> Please see Appendix I for a discussion of methodology.
- <sup>3</sup> See CLASP's national repository for scheduling policy resources at <http://www.clasp.org/issues/work-life-and-job-quality/scheduling-resources>;  
See also "Recently Enacted and Introduced State and Local Fair Scheduling Legislation," National Women's Law Center, <https://nwlc.org/resources/recently-enacted-and-introduced-state-and-local-fair-scheduling-legislation>.
- <sup>4</sup> Sapna Maheshwari, "Victoria's Secret Is Getting Rid Of On-Call Scheduling In Stores," *BuzzFeed*, June 29, 2015, <http://www.buzzfeed.com/sapna/victorias-secret-getting-rid-of-on-call-scheduling#.wrZz1IV7In>;  
Steven Greenhouse, "A Part-Time Life, as Hours Shrink and Shift," *The New York Times*, October, 27, 2012, <http://www.nytimes.com/2012/10/28/business/a-part-time-life-as-hours-shrink-and-shift-for-american-workers.html>;  
Jodi Kantor, "Starbucks to Revise Policies to End Irregular Schedules for Its 130,000 Baristas," *The New York Times*, August 14, 2014, [http://www.nytimes.com/2014/08/15/us/starbucks-to-revise-work-scheduling-policies.html?\\_r=0](http://www.nytimes.com/2014/08/15/us/starbucks-to-revise-work-scheduling-policies.html?_r=0).
- <sup>5</sup> Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, Economic Policy Institute, April, 2015, <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences>.
- <sup>6</sup> Susan Lambert, Peter Fugiel, and Julia Henly, *Precarious Work Schedules among Early-Career Employees in the US: A National Snapshot*, University of Chicago, August 2014, [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly\\_.precarious\\_work\\_schedules.august2014\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_.precarious_work_schedules.august2014_0.pdf).
- <sup>7</sup> *ibid.*
- <sup>8</sup> *ibid.*
- <sup>9</sup> EINet (Employment Instability Researchers Network), California Employment Poll, conducted by Public Policy Polling in partnership with the EINet Measurement Working Group, University of Chicago, 2016, <https://ssascholars.uchicago.edu/einet/employment-polls>.
- <sup>10</sup> *ibid.*
- <sup>11</sup> *ibid.*
- <sup>12</sup> Liz Ben-Ishai, *On the Clock in California: Volatile Schedules in California Retail Jobs*, Center for Law and Social Policy, May 2016, <http://www.clasp.org/resources-and-publications/publication-1/OnTheClockFINAL.pdf>.
- <sup>13</sup> Liz Ben-Ishai, *Job Schedules that Work for Students*, The Center for Law and Social Policy, July 2014, [http://www.clasp.org/resources-and-publications/publication-1/SchedulesthatWork\\_Students.pdf](http://www.clasp.org/resources-and-publications/publication-1/SchedulesthatWork_Students.pdf).
- <sup>14</sup> Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2015*, May 2016, <https://www.federalreserve.gov/2015-report-economic-well-being-us-households-201605.pdf>.
- <sup>15</sup> Liz Ben-Ishai, Hannah Matthews and Jodie Levin-Epstein, *Scrambling for Stability: The Challenges of Job Schedule Volatility and Child Care*, Center for Law and Social Policy, March 2014, <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>;  
Julia R. Henly, Elizabeth O. Ananat, and Sandra K. Danziger, *Nonstandard Work Schedules, Child Care Subsidies, and Child Care Arrangements*, The University of Michigan, March 2006, <http://fordschool.umich.edu/research/poverty/pdf/childcare1.pdf>.
- <sup>16</sup> Ben-Ishai, et. al. *Scrambling for Stability*.
- <sup>17</sup> Lonnie Golden, *Irregular Work Scheduling and Its Consequences*.
- <sup>18</sup> This is a general overview of the law. There are exceptions to some of these provisions. OLSE has promulgated rules that clarify requirements. For complete information about the laws, please see <http://sfgov.org/olse/formula-retail-employee-rights-ordinances>.
- <sup>19</sup> The sample included relatively few African American and White workers (15 and 12 respectively).

<sup>20</sup> This finding reinforces research that shows employers are able to predict a significant portion of their labor needs. See Susan J. Lambert and Julia R. Henly, *Work Scheduling Study: Managers' Strategies for Balancing Business Requirements with Employee Needs, Manager Survey Results*, University of Chicago School of Social Service Administration, May 2010, [http://ssascholars.uchicago.edu/workscheduling-study/files/univ\\_of\\_chicago\\_work\\_scheduling\\_manager\\_report\\_6\\_25.pdf](http://ssascholars.uchicago.edu/workscheduling-study/files/univ_of_chicago_work_scheduling_manager_report_6_25.pdf).

<sup>21</sup> Approximately ten percent of the total (241) sample did not respond to this question.

<sup>22</sup> For examples, see: *Co-Production: Bringing Together the Unique Capabilities of Government and Society for Stronger Labor Standards Enforcement*, The Lift Fund, [http://theliftfund.org/wp-content/uploads/2015/09/LIFTReportCoproductioOct\\_ExecSumm-rf\\_4.pdf](http://theliftfund.org/wp-content/uploads/2015/09/LIFTReportCoproductioOct_ExecSumm-rf_4.pdf); *Delivering \$15: Community-Centered Wage and Hour Enforcement in Seattle*, <http://www.nelp.org/content/uploads/2015/03/Delivering-15-Community-Centered-Wage-and-Hour-Enforcement-Seattle.pdf>;

*Enforcing City Minimum Wage Laws in California: Best Practices and City-State Partnerships*, [http://enforcingsickdays.org/wp-content/uploads/2016/01/Fnal1029\\_MinWage-2.pdf](http://enforcingsickdays.org/wp-content/uploads/2016/01/Fnal1029_MinWage-2.pdf).

<sup>23</sup> David Weil and Amanda Pyles, *Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace*, Harvard University, June 2006, <http://projects.iq.harvard.edu/files/hctar/files/hr08.pdf>.

<sup>24</sup> For more information about the FFWO, see: <http://sfgov.org/olse/FAMILY-FRIENDLY-WORKPLACE-ORDINANCE-FFWO>; *Chapter 12Z: San Francisco Family Friendly Workplace Ordinance*, 2014, [http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter12zsanfranciscofamilyfriendlywork?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca\\$anc=JD\\_Chapter12Z](http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter12zsanfranciscofamilyfriendlywork?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$anc=JD_Chapter12Z).

<sup>25</sup> Both Emeryville and Seattle have passed laws that include a “right to request” that applies to all workers covered under their scheduling laws. City of Emeryville Ordinance No. 16-007, <http://www.ci.emeryville.ca.us/DocumentCenter/View/9401>; City of Seattle Secure Scheduling Ordinance, SMC 14.22, [https://www.municode.com/library/wa/seattle/codes/municipal\\_code?nodeId=TIT14HURI\\_14.22SESC](https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_14.22SESC).

<sup>26</sup> See New York City Council, Int 1387-2016, “Prohibiting On-Call Scheduling for Retail Employees,” <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2900928&GUID=5A7DF104-0104-463E-96FC-A7FB1FDD9B8F&Options=&Search=>.