

Changing Law Firm Culture: Flexible Work Arrangements

By Ann Farmer

Lawyers used to whisper when discussing their desires to go part time or on some kind of flexible work arrangement. Deborah Epstein Henry, president of the national consulting firm Flextime Lawyers LLC, can pinpoint when she saw these issues come tumbling from the closet.

While working in commercial litigation at a Philadelphia firm, Henry had her second child and felt the tug between work and family growing stronger. In 1999, going part time still felt like the kiss of death. Not sure what to do, she formed a lawyer group to discuss flexibility, or lack thereof, in the workplace. It quickly snowballed in size. One turning point came the next year when National Public Radio aired a news story about her group. Another came in 2002 when Henry started a New York chapter and realized that the participants included employer representatives from firms around the city.

“Employers were very concerned about [flexible work arrangements],” recalls Henry, who, by now, was making her living advising firms on how to retain talented women lawyers. “They wanted to know: What are others doing? How can we stay competitive?”

While no data are available to show how many law firms have embraced flexibility, Henry has seen a surge—particularly during the last three years—in the number of firms establishing formal policies regarding flextime, reduced-hours schedules, and other progressive work arrangements such as job sharing. At the same time, she says it’s still overwhelmingly women lawyers who are taking advantage of these programs.

“The stigma is still greater for men than women,” Henry says. She adds that although men are interested in having a more balanced lifestyle and time with their families, many are still unwilling to risk the downsides such as being potentially viewed as less committed to the firm. They fear, just as women lawyers have in the past, that if they momentarily step aside, someone else will climb over them.

Contributing to that insecurity is the fact that many law firms remain vague about their flexibility policies. “They want discretion,” says Henry, adding that many law firms continue to view workplace flexibility as a threat to the longstanding corporate model. “There exists a real concern of this turning into a slippery slope or an opening of the floodgates.”

Best Firms for Women

Hoping to get a handle on the current workplace flexibility situation, Flex-Time Lawyers LLC and *Working Mother* magazine joined

forces this year to come up with a list of the best law firms for women lawyers. They surveyed the policies of 200 medium and large law firms in the United States, examining family leave programs, schedule flexibility, and other matters that apply to both female and male lawyers. Their list was published in August in *Working Mother* (www.workingmother.com).

“We are a sex-blind firm,” says Kayalyn A. Marafioti, a longtime partner at Skadden, Arps, Slate, Meagher & Flom LLP, one of the 10 New York City firms that made the list. She says her company began a part-time policy decades ago that is utilized by men and women. In addition, she helped implement two progressive work policies in the last year that are available to all employees.

One program is named Sidebar, which allows lawyers in good standing at the firm to take time off for all kinds of personal reasons: child rearing, caring for an ailing parent, or perhaps writing that novel that’s been nagging at them. “They can stay away for as long as three years, with the expectation that they will be offered a position on return,” says Marafioti, adding that there is one important condition: During that time, these lawyers cannot be working elsewhere or seeking work elsewhere.

In addition, they’re expected to stay in touch with the firm—attending some of the social events and work meetings and maintaining their continuing education requirements. At the end of the three years, they must decide whether to return. “Rather than that adage that you can’t go home again,” Marafioti says, “the idea is that if they decide to return, they think of us first.”

The firm's other new program is called Flexible Return from Maternity, which may sound like it's just for women but is available to male employees as well. It allows returning parents to create flexible work schedules for up to a year.

"The goal is for people to experiment with the different options," Marafioti says. For instance, after family leave, a lawyer might start back on an 80 percent billable-hours schedule that includes working part time from home and at the office, subject to the approval of his or her department. Once the year is up, the lawyer must decide whether to return full time or part time. But until that point, utilizing the flexible reentry policy is supposed to have no bearing on that person's eligibility to become partner. And Marafioti says that proviso is clearly stated on the written policy.

Making Change Work

When it comes to crafting formal flex- or part-time policies, Flextime's Henry suggests keeping them consistent with other company policies. For instance, if a firm tends toward explicitly written policies, it should specify very clearly what the partnership criteria, eligibility, and restrictions are; how part-time work will affect compensation and advancement; what the nonbillable hours expectations will be; benchmarks; etc.

A few firms have begun to consider job-share policies in order to reduce the need for lawyers to be on call. "I think law firms are missing an important link," Henry says, describing how she believes job sharing allows for more predictability and stability. For instance, one lawyer might be working on an account from Monday through Wednesday, while his or her job-share partner might handle it from Wednesday through Friday. "It literally stops the other lawyer from continuing [to work on the account]," she says, or to feel the need to be on call.

How to Make a Winning Bid for Workplace Flexibility

- **Figure out what flexibility you need.**
- **Scope out your working style.**
- **Identify the equipment you'll need.**
- **Understand your employer's policies.**
- **Evaluate the impact on your career.**
- **Think about the effect on clients and colleagues.**
- **Follow a plan for staying in touch.**
- **Make a plan for dealing with emergencies.**
- **Create a business case for flexibility.**
- **Understand your supervisor's experiences with flexibility.**
- **Play to your supervisor's style.**
- **Be flexible about working flexibly.**
- **Suggest a trial period.**

Adapted from *When Work Works*, a study by the Families and Work Institute. For the full text, go to <http://familiesandwork.org/site/research/reports/3wbooklet.pdf>.

At some firms, job sharing has been in effect for decades, but without the formality of a written policy. One of these companies is Jones, Waldo, Holbrook, & McDonough, PC, a medium-sized firm in Salt Lake City, Utah. "We work in teams," says Susan Peterson, director and shareholder. "It's pretty rare to have only one lawyer attending to a client."

Jones Waldo was one of two law firms that received the 2006 Alfred P. Sloan Award for Business Excellence in Workplace Flexibility, which for the third year was based on a survey of businesses in selected communities across the United States. This year, 89 winners were chosen from 24 communities. Among the general findings of the research was that workplace flexibility is more often found in small or medium-sized businesses than in large businesses.

Peterson says that she's always experienced a great deal of flexibility at Jones Waldo. After an initial stint as an intern, she was hired as an associate while pregnant with her first child. After giving birth, she became the first person in the

company to ask for a part-time schedule to better accommodate her new family. The company granted her a three-quarter schedule with a matching three-quarter salary.

"That was unusual," Peterson says. "Usually women take a disproportionate salary cut." What's more, during that time, the firm never took her off the partner track. "So I became a partner at the same time as if I'd been full time," she says.

Last year, the company passed a formal policy allowing its partners to go part time while retaining their shareholder and voting rights. "I think that's unusual as well," says Peterson, noting that one of the firm's female lawyers went part time just three or four months after becoming partner. "I really don't hear any grumbles," she points out.

At the same time, Peterson says men at the firm have, for the most part, resisted taking advantage of its part-time policies. "I've had a couple of men ask me how it worked out for me and whether it caused any problems for me." She assured them

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that it hadn't. Even as a part-time associate, she says, "I never had a problem getting the work I wanted and having enough work."

Jessica DeGroot, president of the Philadelphia nonprofit ThirdPath Institute, which teaches people how to redesign their work lives to allow for more personal time, has been conducting a long-term focus group involving leaders in the field of law. She says male lawyers would take more advantage of workplace flexibility if more people at the top would set the tone. "If we could have more leaders lead balanced lives, it would give lawyers more license to ask for it."

Aggressive Approaches

Experts like her note that other types of businesses have taken more aggressive approaches to changing workplace cultures. For instance, mega-accounting firm Ernst & Young last year displayed a giant poster in New York's Times Square that featured a male employee alongside the announcement that he was promoted after he took a paternity leave. "We feel that when male employees take advantage of a policy that is typically used by

women, it makes it okay for everyone after that," says Maryella Gockel, the company's flexibility strategy leader.

Effective Strategies

Meanwhile, the trick to getting more law firms to adopt flexible work policies is to show its economic benefit, says Ellen Galinsky, president and cofounder of the Families and Work Institute in New York, which spearheaded and conducted the research for the Sloan awards. "Nobody does anything unless there's a business reason to do it. It has to work for both the employee and the employer."

To that effect, the Institute published a report, *When Work Works*, which highlighted some of the most effective workplace strategies demonstrated by this year's Sloan awardees. (See sidebar on page 9.) The Bailey Law Group, for instance, a small Washington, D.C.-based firm that specializes in environmental law, commercial real estate leasing, and civil litigation, has managed to create a very flexible workplace while tripling its revenues in eight years.

The company allows its employees to work from home when they need to, even providing equipment to facilitate them. "We're a very electronic office," says founder Kathy Bailey, although she's quick to

add that any flexible work arrangements are conditioned on the needs of the office and clients. "You can't leave your colleagues hanging."

When two valued female lawyers moved out of state with their husbands, the firm retained both of them. "I do it because it makes good business sense," says Bailey, explaining that these lawyers had been providing top-notch service to some of the firm's main clients. By keeping the two lawyers onboard, the firm kept the clients happy. And the firm didn't have to invest in training. An unexpected boon came about when one of these long-distance employees brought in an entire portfolio of new clients.

In addition, Bailey has found that workplace flexibility engenders loyalty and higher morale. Years ago, Bailey worked in a large law firm. When she began having children, she encountered little wiggle room to accommodate her shifting needs. So when she founded her firm eight years ago, she resolved to change all that. "To me it seems pretty simple," she says. "We're like a family. We look out for each other." 🍷

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