

**Testimony of Commissioner Lorelei Salas  
New York City Department of Consumer Affairs**

**Before the  
New York City Council Committee on Civil Service and Labor**

**Hearing on  
Introductions 1384, 1387, 1388, 1395, 1396 & 1399  
in relation to requiring fair scheduling practices in the fast food industry**

**March 3, 2017**

Good morning, Chairman Espinal, Chairman Miller, and members of the committees. I am Lorelei Salas, Commissioner of the Department of Consumer Affairs (“DCA”). On behalf of Mayor de Blasio, it is my distinct pleasure to represent the administration at today’s hearing, which will address the Mayor’s signature proposal to introduce fair scheduling practices – or a Fair Workweek – into the fast food industry. I am joined by my colleagues from DCA: Liz Vladeck, Deputy Commissioner of the Office of Labor Policy and Standards, and Amit Bagga, Deputy Commissioner of External Affairs.

Around the country, workers in low-wage industries face immense challenges in trying to make ends meet and support their families. By passing and implementing the Paid Sick Leave, Commuter Benefits, Paid Care, and Freelance Isn’t Free Laws, as well as additional laws that protect workers and job seekers from discrimination, Mayor de Blasio, Speaker Mark-Viverito, and the Council have demonstrated great leadership in making our city a better, safer place for workers. In the fast food industry, in which low-wage jobs are the norm, the problems created by low wages can be exacerbated by unpredictable, opaque scheduling practices that leave workers not knowing when they’re going to work, how many hours they’re going to work, or how much they’re going to earn in a given week. This uncertainty makes it difficult for workers to plan their lives and their budgets. It prevents workers from planning for child or elder care, taking classes to further their education, or sometimes holding a necessary second job. It also means that they do not know how much money they will take home at the end of the week, making it challenging to budget and plan for the future.

At DCA, it is our mission to protect and enhance the daily economic lives of New Yorkers to create thriving communities; central to this mission is bolstering the financial health of New Yorkers and also expanding protections to cover the most vulnerable worker populations in our city. Addressing pernicious scheduling practices in an industry that already pays low wages, leaving New Yorkers financially unstable, is therefore a top priority for our agency. We are particularly concerned about these issues now, as the new presidential administration has not indicated any interest in continuing the previous administration’s deep commitment to aggressive, meaningful enforcement of labor and employment laws. It is therefore critical that we in local governments across the country step

in to fill these anticipated gaps. It is notable then, while acknowledging that correlation might not be causation, that we have seen a jump in Paid Sick Leave complaints since the beginning of this calendar year, which coincides with the transfer of power in Washington. This underscores the importance of our work, especially since many low-wage or vulnerable workers in our city are immigrants, who are the lifeblood of our communities and our economy.

I moved to the US at 19 years of age and I held various jobs while also raising two young boys. If I didn't know my schedule in advance when I was working and putting myself through school, I wouldn't be sitting before you today. Let's work together to ensure that our city's fast food workers – so many of whom are immigrants, just like me – have the same opportunities so many of us have been afforded, and, that beginning with the fast food industry, we establish access to a predictable, transparent schedule as a right, not a privilege.

I'm now going to ask my colleague Liz Vladeck, who as I mentioned earlier leads DCA's Office of Labor Policy and Standards, to provide you with updates about the expansion of our work and specific comments on the bills being heard today. Following her comments, my team and I will be pleased to answer any questions you might have.

**Deputy Commissioner Liz Vladeck  
Office of Labor Policy and Standards  
New York City Department of Consumer Affairs**

Thank you Commissioner Salas, Committee Chairs, and members.

Our Mayor, the Speaker, and all of you, have shown great leadership in pursuing policies and laws that ensure our city's workers, particularly the most vulnerable among them, have the support they need to take care of themselves and their families. Through the collaborative efforts of the Administration and the Council, DCA's Office of Labor Policy and Standards ("OLPS") has been established as the dedicated voice of workers in City government, and the City has demonstrated its commitment to building on its historic role of serving as a laboratory for new, progressive policies. OLPS' staff of attorneys, investigators, outreach and education specialists, as well as research and policy analysts, take very seriously our mandate: to educate workers, employers, and the public about workplace protections; conduct original research and use it to advance new policy initiatives that can raise the floor for workers; and, of course, to enforce key workplace laws and rules.

I will now offer comments on the package of bills being heard today, starting with the four bills that apply to workers in the fast food industry, a fifth that applies to retail workers, and the last, which, as drafted, would apply to all private sector employers in our city.

## Fair Workweek Legislation (Intros 1388 and 1396)

Intros. 1388 and 1396, which together constitute the Mayor’s “Fair Workweek” proposal, are a critical next step for cities like ours that are leading the way in establishing important new minimum labor standards. Our testimony today is supported by significant research conducted over the past five years that makes clear the scope and scale of the negative impact unpredictable scheduling practices have on our communities.

This research has shown that not having sufficiently advance notice of work schedules makes it hard to budget, go to school part time, and arrange for child and elder care. The Community Service Society recently conducted a study of low-income workers in New York City, and found that more than 80% of workers who identify as restaurant workers – a category that includes fast food workers – get less than two weeks’ notice of their schedule, and 40% experience significant fluctuation in their hours from week to week. These practices lead to serious hardships, including falling behind on rent or mortgage payments, being unable to afford subway or bus fare, skipping meals because there’s not enough money to buy food, and having trouble purchasing prescription medication, or paying utility bills.<sup>1</sup> A 2015 study by the Economic Policy Institute that looked at a certain set of low-wage workers found that unpredictable or “nonstandard” schedules were linked with negative behaviors in the children of those workers, including depression, anxiety, withdrawal, and aggression; meaning that such schedules can strain family life. Parents need to know well in advance when they have to work so they can provide predictability and stability for their children. In New York City, the nature of the fast food industry is such that these scheduling practices disproportionately impact workers who are people of color or immigrants.

It is worth noting that despite the ever-increasing profits for fast food chains in the billions of dollars, real wages for New York State fast-food workers declined by 3.6% in the period from 2010 to 2014.<sup>2</sup> This means that the Mayor’s proposal to ensure that fast food workers have predictable, transparent schedules in advance even more important.

Taken together, Intros. 1388 and 1396 would ensure a number of critical protections for fast food workers, including the following:

- 1) Fast food employers would have to post the schedule for all their non-salaried employees 14 days in advance of the workdays on that schedule. Those schedules would have to include at least half of the anticipated shifts – regular, not “on-call” shifts – for each worker for that work period.

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<sup>1</sup> *How Unpredictable Schedules Keep Low-Income New Yorkers from Getting Ahead*, Community Services Society, Dec. 2016

<sup>2</sup> *Fast Food Employment in New York City and State*, fact sheet of National Employment Law Project, June 2015.

- 2) Changes to the schedule would incur premium pay to create incentives for employers to commit to the posted schedules, stick to the schedules once posted, and, and to compensate workers for the unexpected.
- 3) When workers are first hired, they would receive an individual good faith estimate in writing of their schedules, so they would have a baseline expectation for when and how much they are likely to work from week to week; with their exact schedule for any given week to be posted along with everyone else's two weeks in advance, as described above. That estimate would have to be updated anytime the employer decided to make a long-term change. For example, a worker who has always worked Mondays through Fridays would be entitled to an updated good faith estimate if the employer decides they will work Tuesdays through Saturdays instead.
- 4) Fast food employees will be protected under a broad definition of retaliation. The law defines retaliation to include actions based upon perceived immigration status, as we know that immigrant workers are often targeted when they try to assert their rights at work.
- 5) Various provisions ensure that workers who want more work, or more flexibility in their schedule, can have it.
- 6) Finally, our legislation addresses the issue of "clopenings:" shifts where workers are required to both close their shop, and be back within a few short hours to re-open. Defined in 1388 as two consecutive shifts spanning two calendar days with less than 11 hours in between shifts, this practice would be limited to those circumstances where employees either request or consent in writing to work the clopening shifts, for which they would receive \$100 premium for doing so.

Taken together, we believe this package of initiatives would significantly reduce harmful scheduling practices and strengthen fast food workers' opportunities for sustainable and sustaining employment.

I will now offer brief comments on the four other bills that are the subjects of today's hearing, beginning with Intro. 1395, or the "Access to Hours" bill.

The Administration largely agrees with the goal of this bill, which is that those fast food workers who are employed part-time and wish to have the opportunity for full-time employment can pursue it when possible. We believe the bill as drafted would benefit from further thought and specificity to ensure that final legislation would set clear and manageable expectations for employers, as well as create a reasonable and effective enforcement scheme.

The fourth bill, Intro. 1384, relates to providing fast food employees the ability to make voluntary contributions to not-for-profit organizations of their choice through payroll deductions. This bill would require DCA to certify non-profits that seek such contributions and also require us to pursue enforcement action against employers that refuse to make those deductions once 500 employees

of a given chain fast food restaurant have signed authorizations for the deductions. First, we'd like to note that this "deductions" mechanism – to make voluntary contributions via payroll deduction to non-profits – already exists under Section 193 of the New York State Labor Law. For example, the United Way, a large and well-known nonprofit organization, often conducts workplace campaigns where workers sign up to make regular voluntary contributions via payroll deduction. The new element in this bill is the establishment of local enforcement authority, which would become effective when employers refuse to abide by workers' requests to make such contributions. A mechanism like the one in this bill makes it much easier for workers in to support non-profit organizations of their choice, particularly those that might be best suited to provide them with important services or support.

The Administration largely agrees with the goals of this bill. Fast food workers have been engaging in collective efforts to drive change in their industry – and beyond – for several years, and they have achieved critical victories that have helped to improve working conditions, raise wages, and put the treatment of low-wage and vulnerable workers front and center in our national conversation about labor issues. Recognizing that they have often engaged in these efforts by building relationships with non-profit organizations that support their goals, we believe it is sensible to acknowledge this reality by codifying workers' ability to financially support such organizations – or any other organizations they collectively might deem relevant, useful, or deserving.

The bill as currently drafted, however, raises some several concerns. From DCA's perspective, as a civil law enforcement agency, our primary interest is in ensuring that the law that is ultimately adopted realizes the stated goal of the bill and also safeguards workers from bad actors who might wish to take advantage of this new tool. For this reason, we believe that in order to be effective, this bill needs some key revisions. First, requiring an agency such as ours to "certify" a non-profit, as we are not an appropriate entity to be a "gatekeeper" or to bestow upon any given organization an approval to do what they already may under the law. Instead, we advise that the certification requirement be substituted by a registration function, which would be pro forma and not content based. Second, we would offer that the bill require disclosures to workers certain basic information about any non-profits in question before workers sign authorizations for deductions. Additionally, we believe that it would be appropriate for DCA to be empowered to take action if we discover that workers' requests to revoke an authorization for deductions are not being honored. Provisions to ensure workers have due notice of their rights under the law, including their right to revoke an authorization at any time, are also important. In general, we believe that the bill would also benefit from further revision to ensure sufficient enforcement tools are available if DCA were to encounter unscrupulous non-profits in the course of implementing this law. With that said, we are optimistic about the benefits legislation such as this could bring to workers' lives.

I will now turn to to Intro. 1387, which would ban "on-call" scheduling for retail workers, establish minimum required hours for retail workers, and establish certain requirements for workers to receive notice of their schedules. As the Mayor said in September when he announced the Fair Workweek proposal, we recognize that the fast food industry is just one of several in which

unpredictable schedules are a problem. Retail employees often face similar challenges to those faced by fast food employees, and addressing them is an important and shared goal. We believe that the provisions of this bill require further analysis to ensure that this bill creates a scheme that is both effective and reasonable to solve these problems.

Finally, we'd like to offer comments on Intro. 1399, which would establish a right for employees to seek or receive flexible work arrangements, both in general and in certain emergency situations. As written, this bill would apply to all or nearly all private-sector employees.

One of the provisions of this bill would require employers to allow for employees to "call out" or be excused for a certain number of days in a year as a result of having a "caregiver" emergency – a sick child or parent; a spouse or partner in dire physical need, etc. Given that some estimates show that up to 75 percent of the workforce consists of those who are "caregivers" in some way, the administration very much recognizes the challenges by so many in our country's and city's workforces. Unsurprisingly and unfortunately, these challenges are particularly acute for women, people of color, and other low-wage workers. We support the goal of emergency caregiver leave, and also agree that workers should be able to ask for flexible working arrangements outside of emergency situations – without fearing retaliation. That said, we have some concerns about how this latter provision would work, as we think it is important to be careful not to create a misimpression that workers have a new right here, since a right to *request* a schedule change is *not* the same as a right to *receive* that change. As such, the bill as currently structured, which would require for an "interactive process," with respect to schedule changes would be, in our view, unduly burdensome on employers and enforcement resources without providing a countervailing benefit to workers. We also think that other elements of this legislation, including 20-1252, which sets forth a universal notice of schedule to all private sector workers, could interact with other bills that are part of this package in ways that have not been fully examined. Notwithstanding these concerns, we are eager to hear from all stakeholders about the value legislation like this could bring to workers and businesses, and are optimistic about working further on the bill.

We thank the Council for your partnership with the Administration on so many issues – but especially that of unpredictable scheduling in the fast food industry – as it negatively impacts so many New Yorkers. We are eager to engage in dialogue with the Council and all relevant stakeholders on not only the Mayor's proposals, but also all the ones being discussed today.

Thank you; we are happy to take any questions you may have.

RECEIVED

**Testimony of the Partnership for New York City**

**New York City Council  
Committee on Civil Service and Labor**

**Int. No. 1387, prohibiting on-call scheduling for retail employees**  
**Int. No. 1399, establishing a right for employees to seek flexible work arrangements and to receive flexible work arrangements in certain emergency situations**

**March 3, 2017**

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Thank you for the opportunity to testify on proposed legislation regulating the practices of employers. The Partnership for New York City represents the city's business leaders and largest private sector employers. We work together with government, labor and the nonprofit sector to enhance the economy of the five boroughs of New York City.

In summary, the bills before you represent another unwelcome intrusion of municipal government into the relationship between employers and employees. There are about 200,000 employers in the five boroughs, 89% of which have twenty or fewer employees. Every time the Council passes a new mandate on employers, the result is to increase costs of doing business in the city and to discourage new job creation.

The current bills are a case in point. They would require employers to adopt new processes for scheduling, staffing and compliance. The terms of the legislation potentially conflict with consumer needs, business requirements, and with existing collective bargaining agreements. There is no evidence that the remedies proposed in the bills address widespread conditions that are not already being managed in a responsible and thoughtful way by the vast majority of employers. Moreover, many employers impacted by this legislation are retailers that are already struggling to survive and where jobs are being lost at an increasing rate due to new competitive forces. There is insufficient justification for the Council to enact legislation that would almost certainly accelerate job loss in this embattled sector.

**Int. No. 1387**

Int. No. 1387 prohibits on-call scheduling for employees in the retail sector. Thin margins and volatility in the retail business make flexibility in scheduling of workers a matter of survival. The legislation would require at least 72 hours advance scheduling and prohibit cancellation of a shift within 72 hours. This allows no room for emergencies due to factors beyond the control of employers or employees.

Int. No. 1387 also would mandate that employers "provide" at least 20 hours of work within a 14-day period to every employee. This will undoubtedly result in reduction of employees at firms that cannot afford to meet this obligation because of levels of business activity, weather events or other conditions beyond their control.

**Int. No. 1399**

This bill imposes a uniform standard for flexible scheduling arrangements, whether or not an employee's status entitles them to overtime and whether they are fulltime, part-time, new or occasional employees. This is not how the real world works.

Int. No. 1399 also provides employees with the right to request a flexible working arrangement for virtually any reason, while providing no flexibility for the employer. It is completely one-sided. The legislation grants almost unlimited rights to employees to secure changes in their work schedule or temporary leave, again with no reciprocal rights for employers. It sets unrealistic time limits on employers to respond to employee requests for leave or scheduling changes.

Federal and state law, labor contracts, and various mandated leave policies already circumscribe employer flexibility when it comes to scheduling and leave. The Council has shown no compelling evidence of the need for the municipal government to expand on existing worker protections. We, therefore, respectfully request that the Council not move forward with these bills and concentrate their efforts, instead, on working with business and labor to create more good jobs and to ensure that local residents are prepared to succeed in them.



## Testimony – Kyle Bragg, Secretary President 32BJ SEIU

March 3, 2017

### Committee on Civil Service and Labor

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Good morning Chairperson Miller and Committee members and thank you for the opportunity to testify here today. 32BJ's 80,000 plus New York City members stand shoulder-to-shoulder with fast food workers in their fight for better jobs and economic justice.

Our members know what it means to have a job that allows workers to support a family and contribute to their community. It means getting paid a fair hourly wage *and* having enough hours to earn a decent income. It means knowing your schedule in advance so that you can care for your loved ones. It means having the stability and time to pursue higher education and advance your skills. And it means being able to give back locally by shopping in neighborhood stores, and trusting that you'll have the time to volunteer for a needy cause.

That is why we are here today. A fair work week means the same thing for fast food workers as it does for the cleaners, janitors and building service workers in our union.

The largest three fast food chains in the city - McDonald's, Wendy's and Burger King - have over 300 stores and employ almost 15,000 workers between them. If these bills are passed it will mean workers in neighborhoods in every borough of the city - including my home borough of Queens that has more than 50 McDonald's restaurants - will for the first time have a right to access additional hours as they become available in stores. Instead of being stuck on part-time poverty wages, workers will be able to earn a full-time income and inject their spending back into local businesses.

If these bills are passed, workers in the fast food industry will for the first time have a right to know their schedule two weeks in advance and will be protected from retaliation if they refuse to work late shift changes or family unfriendly “clopening” shifts. In an industry in which almost 90% of workers are people of color and 64% are foreign born, this will provide the kind of vital stability that is so often denied and is essential for families and communities to thrive.

The Fast Food Worker Empowerment bill will make it easier for workers to form their own non-profit that can bring about the changes they need in their communities. This organization will be able to advocate for affordable housing, better schools other issues that these workers face in their neighborhoods. This bill is especially important for workers who have no bank account and wouldn't be able to support an organization like this otherwise.

On behalf of our membership I urge you to pass these bills and help fast food workers build the kind of lives that enrich our whole community.



FOR THE RECORD

Thank you to the Committee on Civil Service and Labor for the opportunity to submit testimony today on behalf of The New York Abortion Access Fund (NYAAF). We proudly support the Fast Food Worker Empowerment bill and the Fair Work Week legislation and ask that you stand with us, our clients, and other working New Yorkers to support these efforts.

NYAAF supports anyone who is unable to pay fully for an abortion and is living in or traveling to New York State by providing financial assistance and connections to other resources. Over the years, we've received thousands of calls from people seeking support and have helped many of them get the abortion care they've needed.

Having an abortion can be prohibitively expensive for many people, with the average cost ranging from \$425 at less than 12 weeks to more than \$10,000 in extreme cases. **For fast food workers and other low income workers, these costs are often out of reach.** Even though New York is one of the 17 states where the state Medicaid program does cover abortion for eligible patients, each year, NYAAF still hears from hundreds of individuals with low incomes who often make *just* too much to qualify for Medicaid, yet they still lack the funds necessary to pay for an abortion.

Over 65,000 hourly workers in New York City lack predictable, stable, and transparent work hours—making planning ahead impossible for too many working families. Currently, employers are not required to provide their hourly employees with advance notice of upcoming shifts. When one doesn't have access to a stable and reliable work schedule, life can become chaotic, and consequences can be severe. Without reliable work hours and a predictable source of income, families cannot budget in advance, secure necessary second jobs, enroll in school, or at times schedule needed health care appointments. For hourly workers, an inability to access adequate hours to make ends meet means less money to pay their bills, such as groceries, childcare, and necessary medical treatment.

With NYAAF's support, most of our clients are able to see a healthcare provider and have an abortion without unnecessary waiting periods. But some clients lose access to earlier appointments, which help reduce cost and risk, because they don't know their work schedule in advance. Clients may also have to schedule their abortion without knowing if they will be scheduled to work on a given day, risking the loss of critical pay. Clients who are approaching the state-mandated legal limit at which they can obtain an abortion may face especially dangerous consequences if they are not able to anticipate when they can have their procedure. **Without scheduling transparency, our clients must choose between missing work and their reproductive healthcare needs.** In addition, when our clients have unstable work schedules, they risk being unable to access timely post-abortion care when needed.



New York Abortion Access Fund

By knowing their schedules ahead of time, employees will have more certainty over their income and finances, and a greater ability to take on extra work when available. Most importantly, this proposal means employees will now have more flexibility: flexibility to take classes or learn skills to otherwise increase their earning potential, care for their children or work a second job. These bills will also protect our clients and others like them from employer retaliation if the client has to decline additional hours that were not in their original work schedule in order to meet their reproductive healthcare needs.

The New York City Council is taking a step forward to fight for fast-food and other low-wage workers in our city with vital legislation that will improve their schedules and their lives. This is especially important for the thousands of parents who struggle to work, pay their bills and take care of their children in an industry that often puts the bosses' convenience before workers' rights.

NYAAF is a member of All Above All, a national coalition that seeks to end abortion restrictions for low income women and their families.

*Jessica Treybick, National Income Life Ins. Co., Member of OPEIU Local 277*

*3 March 2017*

*Committee on Civil Service and Labor*

Good Morning Chairperson Miller and Committee Members. My name is Jessica Treybick and I am a PR Marketing Specialist at National Income Life Insurance Company and a member of OPEIU Local 277. I am thankful for the opportunity to testify here in support of this package of bills.

As background, American Income Life Insurance Company is currently licensed in Canada, the U.S and is registered to carry on business in New Zealand. American Income and National Income currently have more than 6,800 representatives and employees internationally. American Income Life along with its New York subsidiary, National Income Life, services over 10.8 million working families and has more than 50.4 billion of life insurance in force. I have been with National Income for almost 10 years and am dedicated to serve the underserved and my community.

This council has continued New York City's proud history of being at the forefront of labor rights – leading the way on the Fight-for-\$15 and passing national leading paid sick days legislation. The bills before the committee uphold this tradition and address fundamental needs that workers across all industry share; the ability to plan their lives based on a fair expectation of work; the need to balance work with family life and other commitments; the need for enough work to make a sustainable income; and the importance of a collective voice advocating on their behalf.

Each of the four bills – Intro 1396, 1395, 1388 and 1384 will make a real difference in the lives of the workers.

Two weeks advance notice of scheduling will allow workers to plan their lives based on a fair expectation of when they will be working. And when late changes are made to shifts, it is only fair that businesses pay to offset the cost that workers incur when they juggle their lives.

The requirement for existing workers to be offered additional hours when they are available is a vital step forward in today's economy. Too many workers have been forced to work multiple jobs to make ends meet due to employers deliberately part-timing work to avoid paying benefits.

The proposed bar on employers scheduling the same worker to close a store late at night before opening the next morning, without an adequate break, is simply common sense. Workers need rest to ensure they are not exhausted on the job and a risk to themselves and their colleagues.

Lastly, enabling fast food workers to make voluntary deductions to a non-profit organization will build the foundation of a strong independent voice. Through this organization workers can inform others about their rights on the job, help to enforce the law when it is breached and advocate for causes that support workers and their communities.

These bills build on the work the council has already done to make the city a place where all people can live and thrive. I strongly encourage you to support their passage and continue our City's legacy of leadership on workers rights.

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*Copy of testimony delivered by Ann B. Toback, Executive Director of The Workmen's Circle  
on Friday, March 3, 2017 to the members of New York City Council;*

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My name is Ann Toback and I am the Executive Director of the Workmen's Circle, a progressive Jewish social justice organization that was founded in 1900 and today connects a growing activist community of Jews of all affiliations with their cultural and social justice heritage.

Since our founding days, the Workmen's Circle has been fighting for workers' rights. Our members helped establish the International Ladies Garment Workers Union, the Amalgamated Clothing Workers of America, and many other organizations on the frontlines of our country's historic labor movement.

Today, the world around us has changed for the worse. We are witness to threats and attacks on our civil liberties, human rights, and workplace protections on an unprecedented scale. Hate crimes are on the rise to a frightening degree, and we in the Jewish community are experiencing a rise in anti-Semitic threats and actions. All of this is occurring amid a federal administration determined to erode the economic, health and safety, and union protections to workers.

I thank the City Council for speaking out against such threats and attacks, and for your commitment to preserving the rights and civil liberties of all New Yorkers, especially the most vulnerable among us: immigrants and refugees.

As we consider the challenges that many New Yorkers face today, I reflect on the similarities faced by those immigrants who founded the Workmen's Circle. They came to America seeking a better way of life, good homes, and good jobs. They sought respect, and fairness. And to achieve their goals, collectively, they joined a national movement that fought for those rights for everyone in the United States.

It is that rich history – of perseverance and progress – that motivates us to be here today. We have proudly advocated for an increase in the \$15 dollar minimum wage, and thank our Governor and Mayor, and many of you, for your support.

But workplace equity involves more than a larger paycheck. Decisions to increase wages ring hollow if those same workers are still subjected to punitive scheduling and prevented from collectively organizing. We unequivocally support the "Fast Food Worker Empowerment and a Fair Work Week" measures before you.

They represent what is morally and ethically necessary to protect the rights of a workforce that today is largely people of color and immigrants, a workforce that cuts across all races and ethnicities, and is most often at the low end of the economic scale. By passing this package of legislation, you are standing up for their rights, and empowering them to receive the workplace respect and protections they deserve.

These men and women struggle to work, pay their bills and take care of their kids in an industry that often puts their bosses' convenience ahead of their rights. Punitive last-minute scheduling changes, wage theft, and harassment are devastating to workers and their communities.

The Fair Work Week bills will provide countless mothers, fathers, and other caretakers working in the fast-food industry with more reliable schedules that will enable them to take care of their kids, continue their education, work other jobs, and plan their lives.

While we wholeheartedly endorse this package of measures, I'd like to specifically highlight one bill. The Fast Food Worker Empowerment bill will enable fast-food workers to form their own non-profit to educate coworkers about their rights on the job and advocate for changes in their communities.

This first-of-a-kind legislation would establish a new path for workers to pool their resources and fight for themselves and their communities. This organization will be able to advocate for police and criminal justice reform, immigrant rights, and the other issues these workers confront in their neighborhoods. This bill is especially important for fast-food workers who have no bank account and who otherwise would not be able to support such an organization.

Our Jewish tradition prizes justice as a paramount value. For centuries, the Jewish community around the world has accepted the responsibility not only to assist the poor, but to empower the needy to become self-supportive and to live with dignity.

Today we are following in the footsteps of centuries of employers, workers, and activists and demanding that our society embrace these same practices of economic justice by legislating greater fairness in the workplace.

THEREFORE:

The Workmen's Circle urges the City Council to pass these Fair Work Week bills and ensure that New York City fast-food and other low-wage workers can truly benefit not just from a better paycheck – but stronger workplace protections – and enjoy the quality of life that they, and our ancestors, passionately cherish.

***For more information, please contact Ann Toback at [AToback@circle.org](mailto:AToback@circle.org) or by phone at 646.291.8360***

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**Testimony  
By the Food Industry Alliance of New York State, Inc.  
in Opposition to  
Int. No. 1399-2016**

Thank you for the opportunity to testify on behalf of the Food Industry Alliance of New York State (FIA) in connection with today's public hearing regarding Int. No. 1399-2016. FIA is a nonprofit trade association that promotes the interests statewide of New York's grocery, drug and convenience stores. Our members include chain and independent grocery stores that account for a significant share of New York City's retail food market and the grocery wholesalers that supply them, as well as drug and convenience stores.

FIA opposes this legislation, which provides a right to request a flexible work arrangement at any time, as well as the right to receive a temporary change from the work schedule in the event of certain emergencies. While well intended, we believe this bill will be disruptive, to the point where struggling food retailers may not be able to keep their doors open.

The provisions authorizing employees to request a flexible work arrangement at any time will impose substantial administrative burdens on grocers, who will be required to devote considerable resources to a time intensive process that can be repeated up to 4 times a year per covered worker. The administrative burdens under the legislation are focused on the food retailer. The employee is not required to provide any information needed to determine if the proposed changes would be inconsistent with business operations. In the event of a denial, the food retailer must provide a written explanation for the denial and the reason for the decision, including whether the request was inconsistent with business operations. This written explanation can be used against the grocer, through numerous enforcement mechanisms contained in Intro. 1396 that would be applicable to alleged violations of this legislation: Administrative remedies for employees or former employees; civil penalties payable to the City; a private right of action, including actions commenced by a union on behalf of workers; and/or actions by the corporation counsel, including a civil action commenced by the corporation counsel for a pattern or practice of violations. In addition, the employer is provided with just 14 days to decide, which is insufficient considering the number of requests that can be reasonably anticipated.

In addition, the legislation does not expressly state that the denial of an employee's request because it is inconsistent with business operations is an affirmative defense that completely shields a food retailer from liability. We respectfully request that proposed section 20-1253(c) be revised to provide such a shield. In addition, the right itself – authorizing most workers in a grocery store to make a request for changes to work arrangements at any time – is by definition inconsistent with business operations and will therefore threaten the viability of NYC grocery stores.

This is because jobs in a supermarket are not interchangeable. A person hired to stock shelves is not trained to work in bakery or produce and does not have the requisite skills to cut meat. It takes considerable time and effort to train workers for these positions and training/transferring workers on a regular basis would be disruptive. In addition, food retailers try to honor seniority wherever possible. Allowing junior workers to leapfrog senior staff with respect to desirable shifts and/or better paying jobs will demoralize employees as a whole. Accordingly, we respectfully request that this legislation be held in committee so that all stakeholders can discuss a more productive approach to these issues.

Under the bill, employees must be granted a temporary change to their work schedule due to specified emergencies. The employee is not required to put such notice in writing, which raises the likelihood that good faith disputes will arise over whether required notice was given on a timely basis. In addition, under the legislation, grocers cannot substantiate a claim that a covered emergency exists. Moreover, food retailers will absorb the costs of replacing workers on a regular basis and of the notice required under proposed sections 20-1254(b) and 20-1254(g). The administrative burdens of these provisions and the provisions of other legislation and laws (such as the grocery worker retention act, the paid sick law and the on-call schedule bill) will divert resources to the point where the viability of some NYC grocery stores will be threatened.

Moreover, the penalties for violating the provisions of the proposed local law are excessive. As noted above, there are multiple enforcement mechanisms contained in Intro. 1396 that may apply to violations of the provisions of this bill. We respectfully request that enforcement of the provisions of this legislation be limited to standard enforcement actions by the department of consumer affairs.

Finally, this bill does not contain an exemption for workers subject to a collective bargaining agreement (CBA). Employees, represented by attorneys and bargaining agents, have a full and fair opportunity to address the issues covered under the legislation through the collective bargaining process. CBAs negotiated through that process reflect a delicate balance designed to protect workers while allowing the business to maximize profitability. The failure to exempt such workers under this bill threatens that delicate balance while disrupting the business through the obligations and costs imposed on grocers. Accordingly, we respectfully request that workers subject to a CBA be exempt from the provisions of this legislation if those provisions are expressly waived in the CBA.

For the foregoing reasons, FIA, on behalf of its members, opposes adoption of this legislation. We look forward to working with government stakeholders to address our concerns.

Respectfully submitted,

**Food Industry Alliance of New York State, Inc.**  
**Jay M. Peltz, General Counsel and Vice President of Government Relations**  
**Metro Office: 914-833-1002**  
[jay@fiany.com](mailto:jay@fiany.com)

**March 3, 2017**



**FOOD INDUSTRY ALLIANCE OF NEW YORK STATE, INC.**

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**Testimony  
By the Food Industry Alliance of New York State, Inc.  
in Opposition to  
Int. No. 1387-2016**

Thank you for the opportunity to testify on behalf of the Food Industry Alliance of New York State (FIA) in connection with today's public hearing regarding Int. No. 1387-2016. FIA is a nonprofit trade association that promotes the interests statewide of New York's grocery, drug and convenience stores. Our members include chain and independent grocery stores that account for a significant share of New York City's retail food market and the grocery wholesalers that supply them, as well as drug and convenience stores.

FIA opposes this legislation, which prohibits on-call scheduling for retail employees. While the bar itself is not inherently problematic, there are provisions in this bill that are unduly burdensome, unfairly restrict grocers' ability to manage their businesses or unlevel the playing field between management and unions.

Under the legislation, grocers cannot cancel any scheduled hours of work for a retail employee within 72 hours of the start of such hours. It also prohibits food retailers from requiring an employee to work with fewer than 72 hours' notice. This does not allow for schedule adjustments due to severe weather. Typically, before a major weather event such as a blizzard or nor'easter, sales increase significantly as people stock up before the storm arrives. Grocers need the flexibility to schedule additional personnel on less than 72 hours' notice in that circumstance. Business then slows as the storm begins, thus creating the need for less staff and to send workers home safely. However, sending workers home in that circumstance would cause food retailers to violate the law by canceling scheduled hours of work even though the cancellation would be due to a dangerous circumstance beyond their control. Accordingly, we respectfully request that proposed sections 20-1261(a)(2) and 20-1261(a)(2)(3) be revised to exempt cancellations or a requirement to work on less than 72 hours' notice due to weather.

The bill also mandates a minimum of 20 hours of work during any 14-day period. This provision does not match the required minimum number of hours to actual demand for hours. Unfortunately, if a worker is not needed for that many hours, the grocer would be pressured to lay that worker off or not hire that person in the first place. In addition, there are workers – for example, students, employees with other part time or full time jobs, caregivers and retirees – who simply don't want to work at least 20 hours every 14 days. We therefore respectfully request that proposed section 20-1261(a)(5) be stricken in its entirety.

Proposed section 20-1262(a) requires food retailers to post work schedules at least 72 hours prior to the beginning of the scheduled hours of work. However, grocers need more flexibility to, for example,

accommodate workers' scheduling needs and changing delivery schedules. Accordingly, we respectfully request that the requirement be reduced to 48 hours prior to the beginning of the scheduled hours of work.

Regarding proposed section 20-1262(b), it is unduly burdensome to require food retailers to provide employees with written copies of their work schedules. Not only can employees record their own schedules, but there is no limit on the number of times an employee can make such a request. As a result, food retailers would effectively be required to keep all workers' schedules on file permanently. In addition, requiring grocers, upon request of an employee, to provide the most current version of *all* employees' work schedules at that location would create an enormous administrative burden without any benefit to the business.

Workers subject to a collective bargaining agreement (CBA) are not covered under the legislation, but only if the provisions of the bill are expressly waived in the CBA and the CBA provides for a comparable or superior benefit for the workers covered under the CBA. This provision unlevels the playing field between food retailers and union workers, since it establishes a floor of benefits that must be provided for the exemption to apply. CBAs reflect a delicate balance negotiated by private stakeholders who are represented by attorneys and bargaining agents. Establishing minimum benefit levels upsets that delicate balance, which might threaten the viability of the grocery store and interferes with a bargaining process designed to allow private parties to negotiate solutions to problems on a productive basis. Accordingly, we respectfully request that proposed section 20-1263 be revised so that workers subject to a CBA are not covered under the legislation if the provisions of the bill are expressly waived in the CBA.

Finally, the penalties for violating the provisions of the proposed local law are excessive. There are multiple enforcement mechanisms contained in Intro. 1396 that may apply to violations of the provisions of this bill: Administrative remedies for employees or former employees; civil penalties payable to the City; a private right of action, including actions commenced by a union on behalf of workers; and/or actions by the corporation counsel, including a civil action commenced by the corporation counsel for a pattern or practice of violations. We respectfully request that enforcement of the provisions of this legislation be limited to standard enforcement actions by the department of consumer affairs.

For the foregoing reasons, FIA, on behalf of its members, opposes adoption of this legislation. We look forward to working with government stakeholders to address our concerns.

Respectfully submitted,

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March 3, 2017

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## **Testimony of the Retail Action Project**

**Before the Committee on Civil Service and Labor, New York City Council**

March 3, 2017

Good morning, Chairman Miller and members of the Civil Service and Labor Committee. My name is Rachel Laforest and I am the Director for the Retail Action Project. I am here to testify on Intro 1387, a bill that bans the practice of on-call scheduling in retail.

The Retail Action Project (RAP) is a workers center initiative of the Retail, Wholesale and Department Store Union (RWDSU). With the power and voices of a growing network of over 1,200 workers in NYC, we are improving workplace standards in the retail industry and in the communities our members call home.

In 2011, RAP and our partners at the Murphy Institute at CUNY embarked on a study in order to begin tracking the wages and working conditions of frontline, non-managerial workers in New York's retail industry. Our study and many others have found that the uncertainty of on-call scheduling is a problematic practice for retail workers, causing high levels of stress, not to mention financial insecurity. On-call schedules make it difficult for workers to attend to other aspects of their lives, things like enrolling in school or taking another part-time job, scheduling medical appointments, caring for sick family members or arranging for childcare. And, a 2015 study by the Economic Policy Institute also showed that it is the lowest income workers who face the most irregular schedules and that retail is one of the industries where on-call is used most prevalently.

On average, just over 50% of the retail workers who come through our doors are dealing with the pressures and problems of on-call. We hear outrageous stories of workers having to skip rent payments, forgo meals, rely on a complicated network of neighbors to care for their children and give up on the possibility of ever going to school because of the uncertainty of their schedule and inability to get consistent hours.

And the practice of on-call is not only affecting workers. While the advancement of scheduling software, a key tool used for more "precise" on-call scheduling, was originally hailed as a cure-all for employers and employees alike, many retailers are finding that the practice hurts their businesses in the long run because of high turnover and low morale, but most continue to employ it nonetheless.

At RAP and the RWDSU we've been organizing around the ban of on-call for years. We both pushed for and took advantage of the Attorney General's intervention with some of the worst perpetrators and while our organizing and education work has had some impact on a store-by-store basis, it is often temporary and based on individual management reactions. We need the

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on-call ban to be legislated, to be applied to all retail workers throughout the industry in New York City, over 2 million people.

It is imperative that government act to protect those who are most vulnerable to abuse and that Intro 1387 be passed so that more NY families can thrive.

Thank for your time and the opportunity to testify.

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## **Testimony of the Retail Action Project**

**Before the Committee on Civil Service and Labor, New York City Council**

March 3, 2017

Good morning, Chairman Miller and members of the Civil Service and Labor Committee. My name is Janika Reyes and I am a member of the Retail Action Project. I am here to testify on Intro 1387, a bill that bans the practice of on-call scheduling in retail.

I've been a member of the Retail Action Project (RAP) for about a year now. RAP is an organization where workers like me are building power to change conditions in the retail industry. I am grateful that my participation in RAP gives me an amplified voice and the opportunity to sit before you today.

As a caregiver I have first-hand experience with the challenges of on-call. Before having to make the hard choice to step away from formal employment to care for my ailing mother, I worked at a retailer called Camper, a high-end footwear company from Spain. Like most retailers, they ask a great deal of their workers. When I began working with them, I was given 15 hours/week with the promise of being "called in" during busy times to make more hours. I didn't realize at the time that what they meant was my having to accept on-call shifts.

My mother is battling cancer. While I worked at Camper I often found myself torn between answering an on-call phone call from my manager or staying by my mother's side while she underwent chemotherapy. It's a horrible choice to have to make, between family or food but it's one that thousands of retail workers are having to make each day. I so desperately needed the hours to bring money into the house but my mother relied on me and quite frankly, I wanted to be there to support her. A stable schedule with minimum guaranteed hours would have allowed us to work her care around my availability and to know what my paycheck would look like each week.

In my experience the on-call requests at Camper were also very ageist and gendered. It seemed to always be the young, college-aged women who were pushed to agree to on-call.

There is an assumption that we're not the bread-winners for our household, not parents ourselves or caregivers of our own elderly or sick parents. There's an assumption that retail workers in general are frivolous, that we rely on our families for support and are at our jobs for extra weekend money. This is simply not true. So many of us are struggling to feed our families off of retail work and we need these jobs to be stable and sustainable.

I've left the retail world for now and am babysitting in my community. I'm not able to contribute taxes or build toward my own social security but it allows me to be close-by to my mother each

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day and have more control over my schedule and how much I make each week. I don't feel I should have had to make this choice though.

While I have an organization like RAP to work through, we cannot do it alone. We rely on government, on you all, to help protect those of us who are regularly exploited. I'm here today to urge you to help pass Intro 1387 to do just that.

Thank for your time and the opportunity to testify.

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## **Testimony of the Retail Action Project (RAP)**

**Before the Committee on Civil Service and Labor, New York City Council**

March 3, 2017

Good morning, Chairman Miller and members of the Civil Service and Labor Committee. My name is Jedidiah Labinjo and I am the Campaign Organizer for the Retail Action Project. I am here to testify on Intro 1387, a bill that bans the practice of on-call scheduling in retail.

The Retail Action Project (RAP) is a member-based organization with the mission of building worker power, elevating industry standards, and promoting family-sustaining jobs.

I'm here today to offer my own experience with on-call and let people know that as a young person of color in New York City, the inability to prioritize and manage your day-to-day activities is not only an inconvenience but a major barrier to becoming a productive, self-sustaining member of my community.

Before being an organizer I was a retail worker. I did the grunt work on the shop floor and felt undervalued just like many of my coworkers. I remember the first time I noticed on my schedule, that I had two shifts highlighted in yellow. I asked my manager what that indicated, and I got an explanation about how an on-call shift works. It was bad enough that I needed to find other means to produce income when I was not scheduled, now I was being told to wait and see if my "off" days would be productive ones, or a bust.

I had heard grumblings from co-workers about on-call before, it seemed the company put my coworkers through hell, preventing them from getting other jobs, having them scramble to find last minute child care or even canceling doctor's appointments that had taken weeks to schedule in the first place. And if you didn't accept the on-call slots, there was always the threat of losing the job all together.

I was a full-time student then and several of the shifts I was being asked to stay on-call for conflicted with my class schedule. There were times when I had to push back and say no and then there the threat of losing my job if I couldn't make myself "more available". But the company was asking me to be more available for uncertainty and less available for ensuring the stability of my own life. That felt wrong and unacceptable.

I ultimately became a lead in organizing that store, and while the demand for on-call didn't stop, it slowed a bit and there were a few of us who got a small increase in regular hours. I'm proud

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of the organizing I did to improve conditions there but I know it's not enough. I see how my organizing helped to build a demand to completely ban the on-call practice but I know the passage of Intro 1387 will make that real and help secure more stable schedules and incomes for all retail workers.

Thank for your time and the opportunity to testify.

**Testimony by Harold Stolper**  
Senior Labor Economist  
Community Service Society of New York

Testimony before the Committee on Civil Service and Labor  
Of the Council of the City of New York  
March 3, 2017

Issue: Int 1384-2016 – A Local Law to amend the administrative code of the city of New York in relation to providing fast food employees the ability to make voluntary contributions to not-for-profit organizations of their choice through payroll deductions

Int 1387-2016 – A Local Law to amend the administrative code of the city of New York, in relation to prohibiting on-call scheduling for retail employees

Int 1388-2016 – A Local Law to amend the administrative code of the city of New York, in relation to banning consecutive work shifts in fast food restaurants involving both the closing and opening of the restaurant

Int 1395-2016 – A Local Law to amend the administrative code of the city of New York, in relation to requiring fast food employers to offer work shifts to current employees before hiring additional employees

Int 1396-2016 – A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing general provisions governing fair work practices and requiring certain fast food employers to provide advance notice of work schedules to employees and provide a schedule change premium when hours are changed after required notices

Thank you for the opportunity to testify today on the issue of unpredictable scheduling that is facing many low-wage New Yorkers.

My name is Harold Stolper, I am the Senior Labor Economist at the Community Service Society, a non-profit organization that works to promote upward mobility for low-income New Yorkers. I am also an Adjunct Assistant Professor at Columbia University's School of International and Public Affairs.

Today I am here to speak on the findings from the Unheard Third Survey, our own annual scientific survey of New Yorkers. This year's survey findings on scheduling—which were published in our recent report, “Unpredictable”—focus on two scheduling practices in particular: limited advance notice of schedules (i.e. when employees are informed of their hours), and fluctuations in work hours (how many hours employees will work). Our data allows us to document how widespread these scheduling practices are, and how they relate to specific economic hardships that workers and their families face. Here is what we found.

Low-wage workers, and workers in the retail and restaurant sectors—including fast food establishments—are most likely to experience short notice. We found that 37 percent of all employed respondents have less than 2 weeks' notice, but this share rises as you move down the income ladder, with 57 percent of poor workers—those with annual incomes at or below the federal poverty level—facing less than 2 weeks' notice. Poor workers are also more likely to

have very short notice of less than 24 hours; more than a quarter of poor workers are effectively on call. When we breakdown advance notice by sector, we find that nearly half of retail workers have less than 2 weeks' notice, and more than 80 percent of restaurant workers, compared to less than one third of other workers.

We also asked respondents whether the number of hours their employer needs them to work changes a great deal from week to week, somewhat from week to week, or stays about the same. We found that 23 percent of all workers said their hours changed from week to week, but this number jumped to 33 percent among retail workers, and 40 percent among restaurant workers.

One important feature of our survey is that it allows us to compare the experiences of low-wage workers with stable schedules to other low-wage workers with unstable schedules. Almost across the board, we found that low-income workers with less advance notice and greater fluctuations in hours had higher hardship rates. For example, low-income workers with less than 2 weeks' notice were more than twice as likely to say they were often unable to afford subway and bus fares as low-income workers with at least 2 weeks' notice. They were also more likely to have fallen behind on their rent, skipped meals, and forgone needed prescriptions.

Again, these results aren't just a story about low wages: when you compare two low-wage workers, one with more advance notice and one with less, the worker with less notice tends to have a harder time paying bills and putting food on the table. To pay steady bills, you need steady hours. This is supported by the data: 68 percent of low-income workers with very unstable schedules have had trouble paying rent or regular bills, compared to only 23 percent of low-income workers with steady hours. Low-income workers with very unstable schedules were also more than 3 times as likely to have lost their job as low-income workers with steady hours.

Some of the most distressing findings highlight the challenges low-income parents face because of scheduling practices. The data shows that all parents—especially mothers—are more likely to experience fluctuating hours than adults without children. The question is whether or not these fluctuations represent desirable schedule flexibility granted to the worker, or instability imposed on the worker.

Unfortunately, we find that parents with unstable schedules have higher hardship rates than parents with more stable schedules. Parents with unstable schedules also have higher hardship rates than non-parents with unstable schedules, presumably because the stakes are higher for parents who are caring for more than just themselves; parents with unstable schedules are significantly more likely to cut back on school supplies, to forgo needed prescriptions, and to go hungry. This is particularly troubling because these hardships are likely to spill over to children.

In summary, our data illustrates just how difficult unpredictable scheduling is for many workers who are struggling to earn a living and care for their family, especially low-wage workers in the restaurant and retail sectors. In order for the growing movement to mandate living wages to effectively provide workers with more economic stability, these workers also need to secure a right to fair work schedules. The scheduling bills that have been introduced in the City Council are an important first step towards guaranteeing fair work schedules for some of the workers who are most affected.



## *Hearing on Legislation to Improve Labor Practices in Fast Food, Retail and other Industries*

Testimony Presented to the New York City Council  
Civil Service and Labor Committee, I. Daneek Miller, Chair

By James A. Parrott, Ph.D., Deputy Director and Chief Economist  
March 3, 2017

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today. My name is James Parrott, Deputy Director and Chief Economist of the Fiscal Policy Institute (FPI), a nonpartisan nonprofit education and research organization focused on New York economic and fiscal policy issues. I have been analyzing labor market and economic trends and policies in New York City for over 25 years. I have closely followed developments shaping wages, incomes and living standards that affect the well-being of typical New York workers.

While there have been many improvements in wages and incomes for New York City workers in the past few years with the enactment of new city and state labor legislation, and with the reduction in the unemployment rate, there are still various employment practices that are harmful to workers and, in my opinion, unnecessary from an employer perspective. The bills before this committee today are designed to address some of these practices.

In June of 2015, the Fast Food Wage Board convened by Governor Andrew Cuomo held four hearings around the state. I attended three of those hearings, testified at the first and the last, and submitted supplemental material at the Board's request. I listened to scores of fast food workers tell their stories of what it was like to work in an industry dominated by national restaurant chains at poverty wages, with few or no benefits, and being forced to endure unpredictable and erratic scheduling that made it impossible to lead a normal life, particularly for parents of young children or those caring for their own parents. What emerged from over 20+ hours of hearings—the video of which is available on the State Labor Department website—was a vivid portrait of the bleakness and despair that characterized the working lives of fast food workers.<sup>1</sup>

The Wage Board members were so moved by the plight of the workers that besides recommending a phased-in \$15 an hour minimum wage, they also discussed the need for measures to address abusive scheduling practices.

In New York City, the fast food minimum wage for employees at chain restaurants was raised from \$9.00 to \$10.50 on December 31, 2015, and to \$12.00 this past December 31<sup>st</sup>. Despite dire warnings about the impact on employment, the fast food industry continued to add jobs at a brisk pace throughout 2016. The number of jobs in New York City's fast food restaurants grew by 4.3

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<sup>1</sup> <https://labor.ny.gov/workerprotection/laborstandards/wageboard2015.shtm>.

percent in 2016 following the increase in the minimum wage, nearly three times as fast as total private sector job growth of 1.5 percent. In fact, fast food job growth was faster during 2016 than in 2015 when jobs increased by 3.5 percent, and the minimum wage rose by 25 cents instead of the \$1.50 an hour increase effective December 31, 2015. As of December 2016, there were 95,000 fast food workers in New York City.<sup>2</sup>

The importance of the proposed bills is underscored when you consider the demographic and social characteristics of the city's fast food workers. Eighty six percent of the workers are age 20 or older—relatively few are teenagers. Women comprise 49 percent of the overall workforce in the city, but they are nearly two-thirds (64 percent) of the fast food workforce. Fifty six percent of all fast food workers have one or more children, and one-fourth are students. We don't have data on how many are caring for elderly parents but we know from the Wage Board hearings that some have that added responsibility. In two-thirds of the cases, the families of fast food workers live below 200 percent of the federal poverty line. Two out of five families of a fast food worker depend on food stamps, making them more than three times as likely to receive food stamps as the citywide average for all industries.<sup>3</sup>

The city's fast food workforce is overwhelmingly comprised of persons of color—88 percent are black, Latino, Asian or of mixed race. This compares with 63 percent citywide across all sectors.

Intro. 1396 requires fast food employers to provide advance notice of work schedules to employees and to pay a premium when hours are changed on short notice. Intro. 1387 prohibits "on-call scheduling" for retail employees. Intro. 1388 prohibits fast food employers from requiring workers to close the store for one shift and then open it up a few hours later for the next shift. To provide more hours on a regular basis, Intro. 1395 requires fast food employers to offer work shifts to current employees before hiring additional workers.

We wouldn't be here today discussing these measures if there wasn't a compelling need to curb abusive scheduling practices that have become all-too-common in retailing and fast food. These bills put in place common sense provisions to curb practices that needlessly harm workers who are paid too little in the first place. These requirements will not unduly impinge on effective business management or profitability. In fact, as in the case of raising the minimum wage floor, these bills likely will improve worker morale, reduce turnover, and result in enhanced overall business performance.

Some workers do seek flexibility in their work hours, but flexibility on a predictable basis, and there are emergency circumstances where workers may need flexible work arrangements. Intro. 1399 establishes reasonable worker rights in such cases.

The final bill, Intro. 1384, provides fast food workers the ability to make voluntary contributions to not-for-profit organizations of their choice through payroll deductions. This would provide workers a convenient means to support organizations that further their workplace or community interests. Employers would be entitled to receive an appropriate administrative fee for handling such contributions.

Thank you for the opportunity to testify today.

<sup>2</sup> Current employment statistics data for New York City from the New York State Department of Labor.

<sup>3</sup> Analysis of American Community Survey data.



**Testimony of  
Andrea Johnson  
Equal Justice Works Fellow  
National Women's Law Center**

**In Support of Fair Work Week Legislation  
(Bill Nos. 1387, 1388, 1395, 1396, 1399)  
Before the  
New York City Council Committee on Civil Service and Labor**

**March 3, 2017**

Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center in support of the Fair Work Week Legislation. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights, and to help women and families achieve economic security. The Fair Work Week Legislation provides crucial protections from scheduling practices that undermine workers' ability to provide for themselves and their families. These protections are particularly important to women, who are disproportionately affected by unfair scheduling practices.

Women's income is more critical than ever before to families' economic security. Nationally, in 2015, 42 percent of mothers were sole or primary breadwinners, and nearly another one-quarter of mothers were co-breadwinners—bringing in 25 percent to 49 percent of family earnings.<sup>1</sup> But unstable, unpredictable work schedules over which workers have little control too often undermine the ability of working women in New York City to provide for themselves and their families. Particularly in low-wage jobs, in sectors like fast food and retail, workers may regularly be required to be on call for shifts that never materialize, may have schedules—and thus incomes—that fluctuate unpredictably from week to week, or may never be assigned enough hours to obtain full-time work. These scheduling policies and practices pose particular problems for workers with responsibilities outside of their jobs, including caregiving, pursuing education and workforce training, or holding down a second job.<sup>2</sup>

In New York City, women make up nearly half of New York City's overall workforce, but 58 percent of the workforce in jobs that typically pay less than \$10.50 per hour.<sup>3</sup> Women of color are especially overrepresented among low-wage workers in New York City, representing 32 percent of the City's overall workforce but 48 percent of the low-wage workforce.<sup>4</sup> In addition to holding the majority of low-wage jobs, women still shoulder the majority of caregiving responsibilities in families;<sup>5</sup> consequently, difficult scheduling practices hit women especially hard. And for the single mothers who head nearly one in three families with children in New York City,<sup>6</sup> work scheduling challenges can be especially acute since there is often no one else with whom to share caregiving responsibilities.

*With the law on your side, great things are possible.*

**I. Work Scheduling Practices that Fail to Take Workers' Lives into Account Undermine Workers' Best Efforts to Provide for Themselves and Their Families**

The fallout from scheduling practices that do not take workers' needs into account can be devastating. Difficult scheduling practices undermine workers' efforts to fulfill their caregiving responsibilities and make maintaining stable child care nearly impossible—which can negatively affect their children. They also make it tougher to pursue education or training while holding down a job, as many workers want to do to make a better life for themselves and their families. For workers who need a second part-time job to make ends meet because they cannot get enough hours at their primary job, unpredictable scheduling practices can make juggling two jobs very difficult. And workers managing serious medical conditions are often denied the control over their schedules that they need to manage their health.

**A. Having Little Say in Their Schedules Makes It Nearly Impossible for Workers to Plan Their Lives**

Nationwide, workers across the income spectrum report having very few opportunities for meaningful input into the timing of the hours that they work, and some are unable to request even minor changes to their work schedules without suffering a penalty.<sup>7</sup> Overall, less than half of workers have flexibility in the scheduling of their work hours.<sup>8</sup> More than a third of parents believe they've been "passed over" for a promotion, raise, or a new job due to a need for a flexible work schedule.<sup>9</sup>

Workers in low-wage jobs often have the least say in their work schedules. In a 2008 survey, about half of low-wage workers reported having little or no control over the timing of their work hours, and other surveys have similar findings.<sup>10</sup> Early-career employees of color in hourly jobs report less control over their work hours than do their white counterparts.<sup>11</sup> Some employers have policies requiring employees to have completely open availability in order to qualify for full-time hours, making it extremely difficult for workers with significant responsibilities outside of work to achieve full-time status.<sup>12</sup> And workers who request a schedule that allows them to attend school, take a child to a regular medical appointment, or address their own health needs too often find that their employers retaliate by cutting their hours sharply.<sup>13</sup>

**B. Little Advance Notice of Schedules Means The Only Plans Workers Can Make Are Those They Can Break**

Providing notice of work schedules a week or less in advance is common in many industries. According to research analyzing the work schedules of a representative sample of early-career adults (26-32 years old), over a third (38 percent) of early career employees know their work schedule one week or less in advance.<sup>14</sup> Such short notice is significantly more common among hourly workers (41 percent) than others (33 percent), and among part-time (48 percent) than full-time workers (35 percent).<sup>15</sup> African American and Latino workers are more likely than white workers to receive no more than a week's notice.<sup>16</sup> Additional studies find that workers in retail, restaurant, and hospitality jobs commonly receive just a few days' notice of a scheduled shift.<sup>17</sup>

Another practice, especially common for retail workers, is to schedule workers for "on-call shifts," which means they must call their employers to find out whether they need to report to work that same day, and are not paid if they are not called into work, despite the need to keep that time

free.<sup>18</sup> In a study of retail workers in New York City, 20 percent of workers surveyed reported that they always or often must be available for on-call shifts.<sup>19</sup> These practices undermine workers' efforts to seek education or workforce training<sup>20</sup> or arrange transportation to and from work,<sup>21</sup> and make it extremely difficult for part-time workers who need to hold down more than one job in order to get enough hours to make ends meet.<sup>22</sup>

Last-minute scheduling practices can also be particularly challenging for parents, who often must scramble to find care for their children during their shifts. When workers are unable to find child care or child care falls through, sometimes workers must miss work and lose pay. In one study, 40 to 60 percent of workers who reported missing work due to child care problems also reported losing pay or benefits, or being penalized in some way.<sup>23</sup> Another common problem that some workers report is being required to stay past their scheduled shift. In a survey of restaurant workers, nearly a third of workers reported that they had been required to stay past the end of a scheduled shift and, as a result, paid fines to child care providers for picking their children up late.<sup>24</sup>

### **C. When the Amount of Hours Workers are Assigned Varies, It is Difficult for Workers to Budget and Meet Expenses**

Many workers in low-wage jobs experience unstable schedules that vary from week to week or month to month, or periodic reductions in work hours when work is slow. Among early-career adults, nearly three-quarters of those in hourly jobs report at least some fluctuations in the number of hours they worked in the previous month, with hours fluctuating, on average, by 50 percent.<sup>25</sup> Among retail and food service workers, close to nine in ten report variable hours.<sup>26</sup> Between 20 and 30 percent of low-wage workers experience a reduction in hours or a layoff when work is slow.<sup>27</sup> In the New York City retail workers survey, over one-third said they were sometimes, often, or always sent home early from their scheduled shifts.<sup>28</sup> For those hourly workers who need more hours, such fluctuations can make it extremely difficult to make ends meet.<sup>29</sup>

Variable work hours can also make it hard for workers to maintain eligibility for child care subsidies that are tied to work hours or simply to meet basic expenses like food, rent, and utilities. And even in months when workers are scheduled for sufficient hours to meet their expenses, workers experience the incredible stress and uncertainty that comes with not knowing in advance how much income they will be bringing home.

### **D. Many Part-Time Workers Want Full-Time Hours In Order to Make Ends Meet**

Nationally, one in five part-time employees works part time involuntarily and would prefer to find full-time work.<sup>30</sup> Half (50.9 percent) of employees who work part time involuntarily are women.<sup>31</sup> Some workers are hired expecting full-time hours only to find that they are not put on the schedule at all for weeks and months at a time, a practice that is especially well-documented in the retail industry.<sup>32</sup>

Part-time workers are more than three times as likely as full-time workers to hold low-wage jobs that typically pay \$10.50 per hour or less, and nearly three-quarters of part-time workers in these low-wage jobs are women.<sup>33</sup> These workers often need more than one job to make ends meet, but when workers have little say in their work schedules at their primary job, it can be difficult to impossible to arrange a schedule at a second job. Women who work part time involuntarily are

more than twice as likely to be poor as women who work part time for other reasons, and five times as likely to be poor as women who work full time.<sup>34</sup>

### **E. Unfair Scheduling Practices Harm Children, Too**

High-quality early care and education benefits children, particularly children from low-income families, helping them gain the early math, language, literacy, social, emotional, and learning skills they need to enter school ready to succeed. But low-wage workers' ability to access quality, affordable, and stable child care is often compromised by unpredictable work schedules.<sup>35</sup> With work schedules and incomes that fluctuate from week to week, many workers have no choice but to cobble together child care at the last minute.<sup>36</sup> Because many centers require caregivers to pay a weekly or monthly fee, regardless of how often the child attends, holding a spot in a child care center is often infeasible for workers who do not know when, or even if, they will work that week. Further, workers with unstable schedules may not qualify for child care subsidies due to fluctuations in income and work hours.<sup>37</sup> As a result of these barriers, parents in low-wage jobs frequently rely on family, friends, and neighbors or seek out lower-cost—and often lower-quality—care for their young children.<sup>38</sup> While some families may have a reliable relative, neighbor, or friend available who can provide nurturing care for their children, other families may be forced to settle for options that do not offer the early learning experiences they want for their children because they have no other choice.

Moreover, the features of low-wage work that increase parents' stress—including nonstandard and constantly fluctuating work hours, rigid attendance policies, and a lack of any paid time off—can also adversely affect their children's development.<sup>39</sup> Studies have linked parents' nonstandard work to children's behavior problems,<sup>40</sup> with larger effects often observed in families in which the parents work in lower-wage jobs.<sup>41</sup> Children's cognitive development may also be affected: for example, parents' employment in nonstandard schedules early in their children's lives is associated with lower expressive language ability in early childhood,<sup>42</sup> and longer periods of nonstandard work are linked to lower reading and math performance in middle childhood and adolescence.<sup>43</sup> These associations may be due to the increased stress that challenging work schedules impose on parents, straining their relationships with their children<sup>44</sup> (and with one another<sup>45</sup>).

In addition, parents with unpredictable schedules may not be available for their children when they would like to be, such as for family meals, homework help, and other routines. Scheduling practices more common in low-wage jobs can also make it more difficult for parents to be engaged in their children's schooling; for example, in one survey, few professional workers but many low-wage workers reported not participating in children's school activities due to a lack of flexibility and paid time off.<sup>46</sup> A number of the low-wage workers surveyed reported being required to give one to two weeks' advance notice to their employers to take any time off—far more notice than their children's schools provided in advance of events.<sup>47</sup> While studies specifically examining unstable and unpredictable schedules are limited, researchers suggest that the extent to which workers can choose their schedules may influence outcomes for their children, with more positive outcomes linked to parents with more control over their work hours and the degree to which they vary.<sup>48</sup>

## **II. The Fair Work Week Legislation Provides Crucial Protections for NYC Workers**

### **A. Bill No. 1399 Provides All Workers in NYC with a Say in their Schedules**

Bill No. 1399 provides all employees in New York City the simple, but critical right to request a flexible work arrangement without fear of retaliation. This protection is incredibly important to putting an end to retaliation, in the form of reduced work hours or even termination, that employees who place some limits on their availability or request particular schedule modifications too often experience. An employee who asks her employer if she can have Tuesday nights off to attend night classes, or a schedule that allows her to see her children in the evenings, should not risk punishment just for making the request. Similar protections have been enacted over the last several years in Vermont, New Hampshire, Seattle, San Francisco, and Emeryville, California.<sup>49</sup>

Importantly, the bill also requires employers to grant employee requests for certain temporary scheduling adjustments to employees who request them because of a caregiving emergency, personal health emergency, or the employee or a family member having been the victim of a family offense matter, a sexual offense, or stalking. Employers are only required to grant such changes four times a year. In 2016, Seattle, Washington passed an ordinance providing for a similar right to receive requested schedule changes.<sup>50</sup>

### **B. Bill No. 1387 Provides Retail Workers with More Predictable and Stable Schedules**

Bill No. 1387 contains important provisions to be followed by retail employers to protect against last-minute changes to an employee's schedule. Specifically, the bill prohibits the harmful and unnecessary practice of on-call scheduling, along with other destructive last-minute scheduling practices—including canceling hours that an employee is scheduled to work within 72 hours of the start of those hours, and requiring an employee to contact the employer to confirm whether she should report to work fewer than 72 hours before her shift. Bill No. 1387 also requires employers to post work schedules at least 72 hours prior to the beginning of the shift and gives employees the right to decline to work hours requested by the employer with less than 72 hours' notice. Importantly, the bill would not prevent an employer from allowing a retail employee to request time off or from allowing two employees to swap shifts.

These protections are crucial because workers with on-call shifts are unable to make any other firm plans for the day—like working at a second job or attending a class—as they must report to work if told to do so, or suffer a penalty. They must forego other opportunities without the guarantee of bringing home any income. And arranging for child care becomes a potentially costly gamble—do you arrange and pay for child care but risk not being called in and not bringing home income, or do you risk having to scramble for child care at the last minute? The fluctuations in work hours that result from these last-minute scheduling practices can lead to wild fluctuations in income, leaving workers with no clue whether they will be able to meet their basic expenses from week to week or month to month.

On-call scheduling is not a necessary business practice. In fact, New York's Attorney General Eric Schneiderman, who has investigated on-call scheduling practices throughout the state, has said that "on-call shifts are not a business necessity."<sup>51</sup> One study of scheduling practices in the retail sector found that for almost two-thirds of the stores, more than 80 percent of hours actually

stayed the same week after week.<sup>52</sup> In other words, retailers have a lot of stability in hours already. Last-minute scheduling is often the result of managers' tendency to delay finalizing schedules until the last minute rather than a true need for sudden changes.<sup>53</sup> The fact that many of the retailers investigated by the New York Attorney General agreed to end on-call scheduling is testament to the fact that retailers do not need this practice to remain competitive and can implement more humane methods for addressing unanticipated employee absences or fluctuations in business.<sup>54</sup> Importantly, limiting employers' currently unlimited flexibility in setting and changing employee schedules does not mean that *employee* flexibility to attend to personal and family needs will also become more limited. To the contrary, when employers are required to give employees their schedules sufficiently in advance and prohibited from making last minute schedule changes, employees are better able to plan their personal obligations so that they can meet both their work and personal obligations.

There is growing movement nationwide to stop last-minute scheduling practices. Seattle and San Francisco have implemented specific protections against on-call scheduling and the District of Columbia and seven other states (California, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Oregon, and Rhode Island) have "reporting time pay" laws on the books providing for some minimum compensation for employees whose shifts are cancelled or reduced at the last minute.<sup>55</sup>

Bill No. 1387 also requires employers to provide employees with no less than 20 hours of work during any 14-day period. This protection is important to putting an end to the far too common retail industry practice of hiring large numbers of part-time employees and then scheduling them for a few hours a week, or none at all for long periods. These workers often don't get enough hours to support their families, but feel constrained from engaging in other employment opportunities because of potential obligations at their primary job. This provision is also important to prevent employers from responding to the ban on on-call scheduling by simply underscheduling employees. This minimum hour guarantee is not only good for retail employees, it is good for retailers: Costco, which has voluntarily adopted a policy of guaranteeing its part-time employees a minimum of 24 hours of work per week, has one of the lowest turnover rates in the retail industry due, in part, to this policy.<sup>56</sup>

### **C. Bill No. 1396 Provides Fast Food Workers with More Predictable and Stable Schedules**

Bill No. 1396 would require fast food employers to provide workers their schedules at least 14 days in advance of when an employee is scheduled to work. Requiring 14 days' notice—and not less—is essential. When fair scheduling advocates have spoken with workers across the country, the consensus has been that workers need at least two weeks' notice of their schedules in order to be able to plan their caregiving responsibilities, schooling, or a second job and meet their primary job responsibilities. A recent study of 3,000 workers conducted by Daniel Schneider of the University of California at Berkeley and Kristin Harknett at the University of Pennsylvania found that workers who receive less than two weeks' notice of their schedules report significantly higher rates of psychological distress than workers who receive at least two weeks' notice.<sup>57</sup> Requiring employers to provide anything less than two weeks' advance notice risks encouraging employers to set a lower standard when businesses, like Starbucks, are moving towards providing two to three weeks' notice.<sup>58</sup> Moreover, almost every bill that has been introduced across the country in recent years to promote fair scheduling practices has provided for two to three weeks' advance notice of

schedules.<sup>59</sup> And the three fair scheduling ordinances that passed in Seattle, San Francisco, and Emeryville all provide for at least two weeks' advance notice. As a leader in the fight for working families, New York City should ensure no less for fast food workers.

Bill No. 1396 also provides that if the employer subsequently adds hours to an employee's schedule, the employer must compensate the employee \$15 for each shift to which the additional hours are added. And if the employer cancels or reduces the hours in a shift, the bill requires the employer to pay the employee an additional \$45 for each change made with between 14 days and 24 hours' notice and \$75 if the change is made with less than 24 hours' notice. This additional pay helps compensate employees for the cost of shifting schedules—whether it be the cost of rearranging child care or not being able to pay a bill as expected, costs that so many workers are not in a position to absorb. It also plays the important role of incentivizing employers to plan ahead and make schedule changes only when really necessary. This is not a penalty on employers, but a means of balancing incentives and costs between employers and their employees. Fast food employees are currently bearing the costs of last-minute schedule changes but are least able to absorb them. The fair scheduling ordinances that were enacted in Emeryville and San Francisco, California, and Seattle, Washington all included similar additional compensation for changes to employee schedules after they have been posted.

These protections are especially crucial to frontline fast food workers in New York City—64 percent of whom are women—because they are more likely than the overall city workforce to have children (56 percent compared to 37 percent) and significantly more likely to be attending school (24 percent compared to 9 percent).<sup>60</sup> And, again, when employers have to give employees their work schedules two weeks in advance and are limited in making changes to those schedules, employees will not, in turn, be limited in their ability to attend to their personal and family obligations; instead, employees can better plan their lives so their personal obligations do not conflict with work. It is thus not surprising that a June 2015 poll showed that seven in ten Americans support requiring chain stores and fast-food outlets to give workers at least two weeks' notice of any changes in their work schedules.<sup>61</sup>

#### **D. Bill No. 1388 Ensures that Fast Food Workers Have the Right to Rest Between Shifts**

Bill No. 1388 will help ensure that fast food workers also have adequate time to travel and rest between shifts by prohibiting employers from requiring employees to work less than 11 hours after the end of the immediately preceding shift, or within the 11 hour period immediately following the end of a shift that spanned two days. If an employee consents to work such shifts, the bill requires the employer to pay the employee \$100 for each instance that an employee works such shifts. This bill disincentivizes the harmful practice of “clopening,” where fast food workers are forced to work the closing shift and return a few hours later to work the opening shift the next morning. In 2016, both Seattle, Washington and Emeryville, California passed similar protections.<sup>62</sup>

#### **E. Bill No. 1395 Provides Important Protections to Ensure Fast Food Workers to Get Enough Hours to Make Ends Meet**

Finally, Bill No. 1395 would help fast food workers, especially those who are involuntarily working part-time hours, make ends meet by promoting full-time work opportunities. Specifically, the bill would require employers to offer available hours to current employees before hiring new

employees or subcontractors. New York City has been a leader in securing a \$15 minimum wage for fast food workers, but if these workers can't get enough work hours, the promise of a \$15 wage falls short. Seattle, Washington and San Francisco, San Jose, and Emeryville, California have all enacted similar requirements to help workers get the hours they need to support themselves and their families.<sup>63</sup> In San Jose where such a requirement was put to the voters as a 2016 ballot initiative, a resounding 64 percent of voters supported it.<sup>64</sup>

### **III. Fair Scheduling Practices Are Good for Employees and Their Families—and for Businesses and the Bottom Line**

When employers provide advance notice of work schedules, minimize disruptions to scheduled shifts (and provide additional compensation for last-minute schedule changes), give employees a voice in their work schedules, and treat part-time workers fairly, working parents are better able to plan their lives and secure stable child care along with the pay and benefits they need to support their families. This increased stability helps ameliorate parents' stress and the risks that exist for their children.

Moreover, while scheduling practices that fail to take workers' needs into account result in higher rates of turnover and absenteeism and lower worker engagement,<sup>65</sup> fair scheduling leads to more productive and committed employees and lower turnover.<sup>66</sup> In other words, businesses benefit when they provide working arrangements that are responsive to their employees' needs. Research shows that the benefits of implementing fair scheduling practices for lower-wage workers are comparable and even greater than the benefits of providing those arrangements to their higher-wage counterparts.<sup>67</sup> Among the benefits are reduced absenteeism, increased retention, reduced health care costs, and increased revenue.<sup>68</sup> When workers have schedules that work, everyone wins.

Importantly, the Fair Work Week Legislation protections—similar to the protections that have recently passed in Seattle, Washington, and San Francisco and Emeryville, California—are tailored to affect primarily large employers in the food service and retail industries. Employers in these industries have been most likely to engage in abusive scheduling practices and are also the most readily able to adopt fair scheduling practices given their size and resources.

### **IV. New York City Should Join the Growing Chorus of Cities and States Taking the Lead in the National Movement for Fair Work Schedules**

With this legislation, New York City would join Seattle, Washington and San Francisco, Emeryville, and San Jose, California which have all enacted fair scheduling ordinances in the last two years, emerging as leaders in the national movement to create workplace policies that truly work for workers and their families. In the 2015-2016 state legislative sessions, 14 states—Arizona, California, Connecticut, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, and Rhode Island—the District of Columbia all considered legislation to curb abusive scheduling practices.<sup>69</sup> And already this year, at least a dozen states have introduced fair work week legislation, including Arizona, Connecticut, Illinois, Maryland, Massachusetts, Minnesota, New York, Ohio, Oklahoma, Oregon, Texas, and Washington.

We urge your support for this important legislation.

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<sup>1</sup> See CTR. FOR AM. PROGRESS, BREADWINNING MOTHERS ARE INCREASINGLY THE U.S. NORM (Dec. 2016), available at <https://www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-areincreasingly-the-u-s-norm/>.

<sup>2</sup> See generally JULIE VOGTMAN & KAREN SCHULMAN, NWLC, SET UP TO FAIL: WHEN LOW-WAGE WORK JEOPARDIZES PARENTS' AND CHILDREN'S SUCCESS (Jan. 2016), available at <http://nwlc.org/resources/set-up-to-fail-when-low-wage-work-jeopardizes-parents-and-childrens-success/>.

<sup>3</sup> NWLC calculations based on U.S. Census Bureau, ACS 2015 1-Year Estimates using IPUMS. While NWLC often defines "low-wage job" as one with a median hourly wage of \$10.50 or less, "low-wage jobs" or "low-wage workers" may be defined in a variety of ways, and the definition of "low-wage" varies throughout this testimony because it draws on multiple data sources. Please reference the individual sources cited for specific details.

<sup>4</sup> NWLC calculations based on U.S. Census Bureau, ACS 2015 1-Year Estimates using IPUMS.

<sup>5</sup> See Bureau of Labor Statistics, U.S. Dep't of Labor, American Time Use Survey, Table A-1. Time spent in detailed primary activities and percent of the civilian population engaging in each activity, averages per day by sex, 2015 annual averages (2016), available at [https://www.bls.gov/tus/tables/a1\\_2015.pdf](https://www.bls.gov/tus/tables/a1_2015.pdf).

<sup>6</sup> NWLC calculations based on U.S. Census Bureau, ACS 2015 1-Year Estimates, Table S1101, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_15\\_1YR\\_S1101&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_S1101&prodType=table) (last visited Feb. 26, 2017).

<sup>7</sup> LIZ WATSON & JENNIFER SWANBERG, FLEXIBLE WORKPLACE SOLUTIONS FOR LOW-WAGE HOURLY WORKERS: A FRAMEWORK FOR A NATIONAL CONVERSATION 6 (May 2011), available at <http://workplaceflexibility2010.org/images/uploads/whatsnew/Flexible%20Workplace%20Solutions%20for%20Low-Wage%20Hourly%20Workers.pdf>.

<sup>8</sup> White House Council of Economic Advisers, *Nine Facts about American Families and Work* 4 (June 2014), available at [http://www.whitehouse.gov/sites/default/files/docs/nine\\_facts\\_about\\_family\\_and\\_work\\_real\\_final.pdf](http://www.whitehouse.gov/sites/default/files/docs/nine_facts_about_family_and_work_real_final.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> See WATSON & SWANBERG, *supra* note 7, at 19-20; LONNIE GOLDEN, ECON. POLICY INST., IRREGULAR WORK SCHEDULING AND ITS CONSEQUENCES, BRIEFING PAPER # 394 9 (Apr. 2014), available at <http://s2.epi.org/files/pdf/82524.pdf> (finding in an analysis of International Social Survey Program data that 45 percent of workers surveyed said "their employer decides" their work schedule; only 15 percent reported they were "free to decide" their work schedule, while the remaining 40 percent felt they could "decide within limits"); SUSAN J. LAMBERT, PETER J. FUGIEL, & JULIA R. HENLY, PRECARIOUS WORK SCHEDULES AMONG EARLY-CAREER EMPLOYEES IN THE US: A NATIONAL SNAPSHOT 14 (Aug. 2014), available at [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) (finding in an analysis of NLSY data that among early career employees, "about 44 percent of workers overall and half of hourly workers say that they do not have any input into when they start and finish work").

<sup>11</sup> 58 percent of Hispanic hourly workers, 55 percent of black hourly workers, and 47 percent of white hourly workers (age 26-32) report that their employer controls their work hours. LAMBERT, FUGIEL, & HENLY, *supra* note 10, at 17.

<sup>12</sup> See Jodi Kantor, *Starbucks to Revise Policies to End Irregular Schedules for Its 130,000 Baristas*, N.Y. TIMES (Aug. 14, 2014), available at [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>13</sup> See, e.g., RETAIL ACTION PROJECT, WHAT YOU NEED TO KNOW ABOUT ERRATIC SCHEDULING: 5 TRENDS IN UNPREDICTABLE RETAIL SCHEDULING, <http://retailactionproject.org/advocacy/policy/erratic-scheduling/> (last visited Feb. 25, 2017).

<sup>14</sup> LAMBERT, FUGIEL & HENLY, *supra* note 10, at 6; see also, e.g., GOLDEN, *supra* note 10, at 18 (noting that analysis of the General Social Survey shows 43 percent of workers reported receiving less than a week's advance notice of their hours, including almost one in five who received their schedule "a day or less" in advance).

<sup>15</sup> LAMBERT, FUGIEL, & HENLY, *supra* note 10, at 6.

<sup>16</sup> *Id.* at 7.

<sup>17</sup> For example, in a study of low-skilled, non-production jobs at 22 sites in the hospitality, retail, transportation, and financial services industries, all but one hotel studied posted schedules the Thursday or Friday before the workweek that began on Sunday, and all but one retail firm posted schedules the Wednesday or Thursday before. Susan J. Lambert, *Passing the Buck: Labor Flexibility Practices that Transfer Risk onto Hourly Workers*, 61 J. HUMAN RELATIONS 1203,

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1217 (2008). *See also, e.g.*, STEPHANIE LUCE & NAOKI FUJITA, DISCOUNTED JOBS: HOW RETAILERS SELL WORKERS SHORT 8 (2012), available at [http://retailactionproject.org/wp-content/uploads/2012/03/7-75\\_RAP+cover\\_lowres.pdf](http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf) (observing that in a survey of retail industry workers in New York, about a fifth of respondents reported receiving their work schedules only three days in advance).

<sup>18</sup> *See, e.g.*, CTR. FOR LAW & SOCIAL POLICY, RETAIL ACTION PROJECT, & WOMEN EMPLOYED, TACKLING UNSTABLE AND UNPREDICTABLE WORK SCHEDULES 11 (2014), available at <http://www.clasp.org/resources-and-publications/publication-1/Tackling-Unstableand-Unpredictable-Work-Schedules-3-7-2014-FINAL-1.pdf>; CTR. FOR POPULAR DEMOCRACY, HOUR BY HOUR: WOMEN IN TODAY'S WORKWEEK 5 (2015), available at [http://populardemocracy.org/sites/default/files/HourbyHour\\_final.pdf](http://populardemocracy.org/sites/default/files/HourbyHour_final.pdf). *See also* LUCE & FUJITA, *supra* note 17, at 8.

<sup>19</sup> LUCE & FUJITA, *supra* note 17, at 13.

<sup>20</sup> *See* EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL OF ECONOMIC ADVISERS, WORK-LIFE BALANCE AND THE ECONOMICS OF WORKPLACE FLEXIBILITY 3 (2010); LISA MATUS-GROSSMAN & SUSAN GOODEN, MDRC, OPENING DOORS: STUDENTS' PERSPECTIVES ON JUGGLING WORK, FAMILY AND COLLEGE 65 (2002), available at [http://www.mdrc.org/sites/default/files/full\\_466.pdf](http://www.mdrc.org/sites/default/files/full_466.pdf).

<sup>21</sup> JOAN C. WILLIAMS & PENELOPE HUANG, CTR. FOR WORK LIFE LAW, IMPROVING WORK-LIFE FIT IN HOURLY JOBS: AN UNDERUTILIZED COST-CUTTING STRATEGY IN A GLOBALIZED WORLD 13, 15, 57 (2011); NANCY C. CAUTHEN, DEMOS, SCHEDULING HOURLY WORKERS: HOW LAST MINUTE JUST-IN-TIME SCHEDULING PRACTICES ARE BAD FOR WORKERS, FAMILIES AND BUSINESS 7 (2011), available at <http://www.demos.org/publication/scheduling-hourly-workers-how-last-minute-just-time-scheduling-practices-are-bad-workers>.

<sup>22</sup> WATSON & SWANBERG, *supra* note 7, at 8-9.

<sup>23</sup> *Id.* at 8.

<sup>24</sup> RESTAURANT OPPORTUNITIES CTR. UNITED, THE THIRD SHIFT: CHILD CARE NEEDS AND ACCESS FOR LOW-WAGE WORKING MOTHERS IN RESTAURANTS 9-10 (July 2013), available at <http://www.scribd.com/doc/161943672/The-Third-Shift-Child-Care-Needs-and-Access-for-Working-Mothers-in-Restaurants>.

<sup>25</sup> LAMBERT, FUGIEL, & HENLY, *supra* note 10, at 11.

<sup>26</sup> *Id.* at 17-18.

<sup>27</sup> WATSON & SWANBERG, *supra* note 7, at 22 (with the exception of full-time low-wage workers with standard hours, for whom less than 20 percent reported this problem).

<sup>28</sup> LUCE & FUJITA, *supra* note 17, at 13.

<sup>29</sup> LAMBERT, FUGIEL, & HENLY, *supra* note 10, Table 7.

<sup>30</sup> ANNE MORRISON & KATHERINE GALLAGHER ROBBINS, NWLC, PART-TIME WORKERS ARE PAID LESS, HAVE LESS ACCESS TO BENEFITS—AND TWO-THIRDS ARE WOMEN 2 (Sept. 2015), available at [http://www.nwlc.org/sites/default/files/pdfs/part-time\\_workers\\_fact\\_sheet\\_8.21.1513.pdf](http://www.nwlc.org/sites/default/files/pdfs/part-time_workers_fact_sheet_8.21.1513.pdf).

<sup>31</sup> *Id.*

<sup>32</sup> LUCE & FUJITA, *supra* note 17, at 6, 13. *See also* Steven Greenhouse, *A Part-Time Life, as Hours Shrink and Shift*, N.Y. TIMES (Oct. 27, 2012), available at <http://www.nytimes.com/2012/10/28/business/a-part-time-life-as-hours-shrink-and-shift-for-american-workers.html?pagewanted=all>.

<sup>33</sup> MORRISON & GALLAGHER ROBBINS, *supra* note 30, at 1. 35.5 percent of part-time workers hold low-wage jobs that typically pay \$10.50 per hour or less, compared to 10.9 percent of full-time workers. 71.6 percent of part-time workers in low-wage jobs are women. *Id.*

<sup>34</sup> *Id.* at 2-3. 25.1 percent of women who work part time involuntarily are poor, compared to 11.1 percent of women who work part time for other reasons and 5.0 percent of women who work full time. *Id.*

<sup>35</sup> *See generally* VOGTMAN & SCHULMAN, *supra* note 2, at 17-21.

<sup>36</sup> *Id.* at 17-18.

<sup>37</sup> *Id.* at 20.

<sup>38</sup> *Id.* at 18.

<sup>39</sup> *See generally id.*

<sup>40</sup> *See, e.g.*, Stephanie S. Daniel et al., *Nonstandard Maternal Work Schedules During Infancy: Implications for Children's Early Behavior Problems*, 32 INFANT BEHAV. & DEV. 195, 203-04 (2009); E. Rosenbaum & C.R. Morett, *The Effect of Parents' Joint Work Schedules on Infants' Behavior Over the First Two Years of Life: Evidence from the ECSLB*, 13 MATERNAL & CHILD HEALTH J. 732, 732 (2009); Wen-Jui Han, *Shift Work and Child Behavioral Outcomes*,

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22 WORK, EMP. & SOC. 67 (2008); Wen-Jui Han, Daniel P. Miller, & Jane Waldfogel, *Parental Work Schedules and Adolescent Risky Behaviors*, 46 DEV. PSYCHOL. 1245, 1261 (2010). See also VOGTMAN & SCHULMAN, *supra* note 2, at 14-15 & 33 nn. 116-19.

<sup>41</sup> See Han, *supra* note 40 (finding that “children whose mothers worked non-day shifts and who had almost always . . . lived in single-mother families, in low-income families, in families where mothers worked in a cashier or service occupation, or in families where mothers worked full-time,” on average had a predicted Behavioral Problems Index score of 8.82, 70 percent higher than the predicted score (5.19) for other children); Han, Miller, & Waldfogel, *supra* note 40, at 1257 (finding that effects of parents’ nonstandard work schedules were “particularly pronounced for . . . children in poor families, and children whose mothers never worked as professionals.”).

<sup>42</sup> Erika C. Odom, Lynne Vernon-Feagans, & Ann C. Crouter, *Nonstandard Maternal Work Schedules: Implications for African American Children’s Early Language Outcomes*, 28 EARLY CHILD. RES. Q. 379 (2013); Wen-Jui Han, *Maternal Nonstandard Work Schedules and Child Cognitive Outcomes*, 76 CHILD DEV. 137, 137, 152 (2005).

<sup>43</sup> Wen-Jui Han & Liana E. Fox, *Parental Work Schedules and Children’s Cognitive Trajectories*, 73 J. OF MARRIAGE & FAM. 962, 962 (Oct. 2011).

<sup>44</sup> See, e.g., Odom, Vernon-Feagans, & Crouter, *supra* note 42; Anna Gassman-Pines, *Low-Income Mothers’ Nighttime and Weekend Work: Daily Associations with Child Behavior, Mother-Child Interactions, and Mood*, 60 FAM. REL. 15, 26 (2011); Pamela Joshi & Karen Bogen, *Nonstandard Schedules and Young Children’s Behavioral Outcomes Among Working Low-Income Families*, 69 J. OF MARRIAGE & FAM. 139, 139 (2007).

<sup>45</sup> For example, research has linked nonstandard hours to higher levels of divorce, less time together as a couple, and lower relationship satisfaction. Maureen Perry-Jenkins et al., *Shift Work, Role Overload, and the Transition to Parenthood*, 69 J. OF MARRIAGE & FAM. 123-38 (2007). See also Kelly D. Davis et al., *Nonstandard Work Schedules, Perceived Family Well-Being, and Daily Stressors*, 70 J. OF MARRIAGE & FAM. 991 (2008). Although some two-parent families in low-wage jobs cope with the child care problems outlined above by “tag teaming,”—working on opposite schedules so that one parent is available to provide child care—this results in even less time together as a couple.

HEATHER BOUSHEY, CTR. FOR ECON. & POLICY RESEARCH, TAG-TEAM PARENTING 3 (2005), available at [http://www.cepr.net/documents/work\\_schedules\\_2006\\_08.pdf](http://www.cepr.net/documents/work_schedules_2006_08.pdf).

<sup>46</sup> Anna Haley-Lock & Linn Posey-Maddox, *Fitting It All In: How Mothers’ Employment Shapes Their School Engagement* 14-22, J. COMMUNITY, WORK & FAMILY (Dec. 2014).

<sup>47</sup> *Id.* at 20-21.

<sup>48</sup> See Han & Fox, *supra* note 43, at 969, 972, 975, 978; Han, Miller, & Waldfogel, *supra* note 40, at 1249, 1257, 1259. Compare with Rucker C. Johnson, Ariel Kalil, & Rachel E. Dunifon, *Employment Patterns of Less-Skilled Workers: Links to Children’s Behavior and Academic Progress*, 47 DEMOGRAPHY (2012). For a detailed discussion of these studies and their findings, see VOGTMAN & SCHULMAN, *supra* note 2, at 15 & 34 nn. 127-34.

<sup>49</sup> NWLC, RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION 3-5 (Jan. 2017), available at <http://nwlc.org/wp-content/uploads/2017/01/Fair-Scheduling-Report-1.30.17-1.pdf>; NWLC, OVERVIEW OF SELECTED STATE AND LOCAL SCHEDULING PROTECTIONS (Jan. 2015), available at [https://nwlc.org/wp-content/uploads/2015/08/overview\\_of\\_selected\\_state\\_and\\_local\\_scheduling\\_protections\\_jan\\_2015.pdf](https://nwlc.org/wp-content/uploads/2015/08/overview_of_selected_state_and_local_scheduling_protections_jan_2015.pdf).

<sup>50</sup> NWLC, RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION, *supra* note 49, at 4-5.

<sup>51</sup> April 2016 Letter from New York Attorney General Eric Schneiderman, available at <https://ag.ny.gov/press-release/ag-schneiderman-and-eight-other-state-attorneys-general-probe-retailers-over-use-call>.

<sup>52</sup> Susan Lambert and Julia R. Henley, *Managers’ strategies for balancing business requirements with employee needs: Maanager survey resulst.* Working paper of The University of Chicago Work Scheduling Study (Chicago: University of Chicago, May 2010), [https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/univ\\_of\\_chicago\\_work\\_scheduling\\_manager\\_report\\_6\\_25\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/univ_of_chicago_work_scheduling_manager_report_6_25_0.pdf).

<sup>53</sup> *Id.*

<sup>54</sup> A.G. Schneiderman Announces Agreements with Six Major Retailers To Stop On-Call Shift Scheduling (Dec. 20, 2016), available at <https://ag.ny.gov/press-release/ag-schneiderman-announces-agreements-six-major-retailers-stop-call-shift-scheduling>.

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<sup>55</sup> See NWLC, REPORTING TIME PAY: A KEY SOLUTION TO CURB UNPREDICTABLE AND UNSTABLE SCHEDULING PRACTICES (Jan. 2015), *available at* [http://www.nwlc.org/sites/default/files/pdfs/reporting\\_time\\_pay\\_fact\\_sheet\\_jan\\_2015.pdf](http://www.nwlc.org/sites/default/files/pdfs/reporting_time_pay_fact_sheet_jan_2015.pdf).

<sup>56</sup> CTR. FOR LAW & SOCIAL POLICY ET AL., TACKLING UNSTABLE AND UNPREDICTABLE WORK SCHEDULES, *supra* note 18, at 8.

<sup>57</sup> Daniel Schneider & Kristin Harknett, *Schedule Instability and Unpredictability and Worker and Family Health and Wellbeing* 20-21 (Washington Ctr. for Equitable Growth Working Paper 2016-09, 2016), <http://equitablegrowth.org/working-papers/schedule-instability-and-unpredictability/>.

<sup>58</sup> See Starbucks Approach to Staffing and Scheduling, <https://news.starbucks.com/views/starbucks-approach-to-staffing-and-scheduling> (last visited March 2, 2017).

<sup>59</sup> See generally NWLC, RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION, *supra* note 50.

<sup>60</sup> James Parrott, DEMOGRAPHIC CHARACTERISTICS, INCLUDING PARENTAL, STUDENT AND POVERTY STATUS OF FRONTLINE NYC FAST-FOOD WORKERS, FISCAL POLICY INSTITUTE (Oct. 20, 2016).

<sup>61</sup> CBS/New York Times Poll (June 2015), *available at* <http://www.cbsnews.com/news/poll-who-can-get-ahead-in-the-u-s/>.

<sup>62</sup> NWLC, RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION, *supra* note 50, at 3-5.

<sup>63</sup> *Id.*

<sup>64</sup> See Santa Clara County Registrar of Voters, November 8, 2016 Presidential General Election Results, [http://results.enr.clarityelections.com/CA/Santa\\_Clara/64404/184659/Web01/en/summary.html](http://results.enr.clarityelections.com/CA/Santa_Clara/64404/184659/Web01/en/summary.html) (last visited Feb. 25, 2017).

<sup>65</sup> A BETTER BALANCE, THE BUSINESS CASE FOR WORKPLACE FLEXIBILITY 2-4 (Nov. 2010), *available at* [http://www.abetterbalance.org/web/images/stories/Documents/fairness/factsheets/BC-2010-A\\_Better\\_Balance.pdf](http://www.abetterbalance.org/web/images/stories/Documents/fairness/factsheets/BC-2010-A_Better_Balance.pdf).

<sup>66</sup> *Id.*

<sup>67</sup> ANNA DANZIGER & SHELLEY WATERS BOOTS, WORKPLACE FLEXIBILITY 2010 & URBAN INST., LOWER-WAGE WORKERS AND FLEXIBLE WORK ARRANGEMENTS 7 (2008), *available at* <http://workplaceflexibility2010.org/images/uploads/Lower-Wage%20Workers%20and%20FWAs.pdf>.

<sup>68</sup> A BETTER BALANCE, *supra* note 65.

<sup>69</sup> NWLC, RECENTLY ENACTED AND INTRODUCED STATE AND LOCAL FAIR SCHEDULING LEGISLATION, *supra* note 50.

**New York City Council  
Committee on Civil Service and Labor  
Testimony on Int 1399-2016  
Establishing a right for employees to seek flexible work  
arrangements and to establish a “right to receive” flexible  
work arrangements in certain emergency situations.**

**Ariane Hegewisch  
Program Director Employment and Earnings**

**March 3, 2017**



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**Testimony to New York City Council Committee on Civil Service and Labor on  
Int 1399-2016 Establishing a right for employees to seek flexible work arrangements and to  
establish a “right to receive” flexible work arrangements in certain emergency situations**

Thank you for the opportunity to provide testimony on Int 1399-2016.

My name is Ariane Hegewisch; I am the Program Director for Employment & Earnings at the Institute for Women’s Policy Research (IWPR). Prior to joining IWPR I worked for over a decade at Cranfield School of Management, one of the top university business schools in Europe, where I was a lecturer and senior researcher on Human Resource Management.

IWPR conducts rigorous research and disseminates its findings to address the needs of women, promote public dialog at national, state and local level, and strengthen families, communities, and societies. The analysis of the frequent mismatch between the world of work and the world of caregiving, and the implications for the economic security of women and their families, have been central aspects of IWPR’s research since it was founded in 1987.

According to a 2015 survey, 45 percent of employees in New York City do not have access to flexible working.<sup>1</sup> Lack of access to workplace flexibility is an important contributor to gender inequality. Women are more likely than men to have family care responsibilities, and women are more than nine times as likely as men to work part-time for childcare or other family obligations.<sup>2</sup> Women are less likely than men to have access to schemes that allow them to vary the starting and ending times of their shifts, and they are less likely to have access to home-based working than men.<sup>3</sup> While many workers have access to informal flexibility, such arrangements are often not reliable because they depend on the goodwill of a particular supervisors; when supervisors change- as they frequently do- the arrangements frequently fall apart, leading to lower motivation and productivity at its best, and to forced exit from the workplace at its worst.<sup>4</sup> In a recent national survey of HR managers only a minority reported that managers consistently supported workplace flexibility.<sup>5</sup>

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<sup>1</sup> Office of the New York City Comptroller. 2015. “Families and Flexibility: Building the 21st Century Workplace” <<http://comptroller.nyc.gov/wp-content/uploads/documents/FlexSurveyReport.pdf>> (accessed March 1, 2017).

<sup>2</sup> Chapter 3 ‘Work & Family’ in Cynthia Hess, Jessica Milli, Jeff Hayes, and Ariane Hegewisch. 2015. *Status of Women in the States: 2015*. Report #R400. Washington, DC: Institute for Women’s Policy Research. <<http://statusofwomendata.org/wp-content/uploads/2015/09/PDF-of-final-Work-Family-chapter-9-4-2015.pdf>> (accessed March 1,2017).

<sup>3</sup> See for example Lonnie Golden. 2008. “Limited Access: Disparities in Flexible Work Schedules and Work-at-home.” *Journal of Family and Economic Issues* (29:1) 86-109; Christin L Munsch,. 2016. “Flexible Work, Flexible Penalties: The Effect of Gender, Childcare, and Type of Request on the Flexibility Bias.” *Social Forces* 94: 1567-1591.

<sup>4</sup> Office of the New York City Comptroller, as above; Pamela Stone. 2007. *Opting Out? Why Women Really Quit Careers and Head Home*. University of California Press,

<sup>5</sup> WorldatWork. 2015. *Trends in Workplace Flexibility*. Report Underwritten by FlexJobs; September <<https://www.worldatwork.org/adimLink?id=79123>> (accessed March 1,2017).

I welcome the opportunity to provide testimony on the proposed bill to provide employees a right to seek a change in their working arrangements without fear of retaliation and to receive short-term adjustments to their schedules in response to certain emergency situations. For the last two decades a growing number of countries have introduced similar laws to improve workers' access to workplace flexibility and I have closely followed the implementation and impact of these laws, including through studies for the UK Commission for Equality and Human Rights, and one for the UK Trades Union Council.<sup>6</sup>

The proposed NYC law follows the UK's 'Right to Request, and Duty to Consider, Flexible Working' law which provides a process for employees to request changes in the number of hours they work, the location and/or the scheduling of their work.<sup>7</sup> The UK Right to Request Law was first introduced in 2002, and then successively amended to include a broader range of employees in the scope of the law, most recently in 2014<sup>8</sup>, each time with the broad support of trade unions, human resource management associations, and employer organizations.

The UK experience provides useful insights of what a Right to Request law can and cannot achieve.

The UK law adopted a 'soft' approach to regulation: instead of receiving a right to an alternative work arrangement, employees received a right to have a request considered in a timely and structured manner. While there was considerable skepticism towards this approach, the law proved as effective as more conventionally framed laws in other European countries that also aimed at increasing access to quality flexible working arrangements.<sup>9</sup>

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<sup>6</sup> Ariane Hegewisch. 2009. *Flexible working policies: A comparable review*. UK Equalities and Human Rights Commission; Research Report 16; Spring <<https://www.equalityhumanrights.com/en/publication-download/research-report-16-flexible-working-policies-comparative-review>>; Colette Fagan, Ariane Hegewisch, and Jane Pillinger. 2006. *Out of time: Why Britain needs a new approach to working-time flexibility*; Research report for the TUC; London: Trade Union Congress <<https://www.escholar.manchester.ac.uk/api/datastream?publicationPid=uk-ac-man-scw:5b153&datastreamId=FULL-TEXT.PDF>>.

<sup>7</sup> See Ariane Hegewisch and Janet Gornick. 2007. *Statutory routes to workplace flexibility in cross-national perspective* Washington, DC: Institute for Women's Policy Research (IWPR Report No. B258) <<https://iwpr.org/publications/statutory-routes-to-workplace-flexibility-in-cross-national-perspective/>>

<sup>8</sup> UK Department for Business, Innovation & Skills. 2014. "Flexible working rights extended to more than 20 million." Press Release; June 30<sup>th</sup> <<https://www.gov.uk/government/news/flexible-working-rights-extended-to-more-than-20-million>> (accessed March 1, 2017).

<sup>9</sup> See Hegewisch 2009, at note 1 above.

Since 2002 there has been a substantial increase in requests for flexible work arrangements in the UK.<sup>10</sup> Eight in ten requests were accepted (either directly or after some negotiation).<sup>11</sup> Requests have been particularly common from employees who were already working part-time or in a nonstandard working arrangements, such as part-time workers seeking changes in the days they worked or in the timing of their shifts. While the impact has been greatest on workers with caregiving responsibilities, it has increased access to flexible working for all workers, beyond those directly covered by the statute.

Progress however has not been made across the board. The law has had little impact on increasing flexible working in sectors and workplaces where hardly anyone had workplace flexibility.

The law has increased men's access to alternative working arrangements- an important aspect of achieving greater gender equality. Yet while there has been a clear increase in requests from men, workplaces which mainly employ men have seen much less change, and men on the whole have also been less successful in their requests.

The UK Right to Request law has had the strongest impact in organizations which employ substantial number of women and already provided some flexibility, but where access to flexible work arrangements was often ad hoc and inconsistent. The law has helped organizations implement flexible working strategies by providing tools, by giving authority to human resource managers to ensure uniform standards across their organization, and by providing clear guidelines to line managers.

In other words: the best and the worst employers have not changed much- but the messy middle, where many women work—has improved.

The final lesson from the UK, and other countries that have taken the legal route to increasing access to workplace flexibility, is that a statutory right is only as good as people's awareness of the right. The introduction of the law in the UK was accompanied by substantial publicity, as well as access to resources for employers and workers. This substantially improved the laws impact.

Thank you.

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<sup>10</sup> UK HM Government. 2012. "Modern Workplaces Consultation - Government Response on Flexible Working: Impact Assessment: Consultation on Modern Workplaces." November.

<<http://www.parliament.uk/documents/impact-assessments/ia12-030.pdf>> (accessed March 1, 2017).

<sup>11</sup> Sarah Tipping, Jenny Chanfreau, Jane Perry, and Clare Tait. 2012. "The Fourth Work-Life Balance Employee Survey." UK Department for Business, Innovation & Skills EMPLOYMENT RELATIONS RESEARCH SERIES 122 <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/32153/12-p151-fourth-work-life-balance-employee-survey.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32153/12-p151-fourth-work-life-balance-employee-survey.pdf)> (accessed March 1, 2017)

# Testimony before the New York City Council on ‘Fair Workweek’ legislation

Testimony • By Lonnie Golden • March 3, 2017

*On Friday, March 3, EPI Research Associate Lonnie Golden testified before the New York City Council in support of five “Fair Workweek” bills being introduced by the Council.*

Thank you for the opportunity to submit comments on the introduction of New York City’s proposed “Fair Workweek” legislation:

**Int. 1396** – *Requiring 14-day advance notice of work schedules for fast-food workers*

**Int. 1395** – *Requiring fast-food employers to offer available hours to current employees before hiring new employees (“access to hours”)*

**Int. 1388** – *Banning consecutive closing/opening work shifts (“clopening”) for fast-food workers*

**Int. 1387** – *Prohibiting on-call scheduling for retail employees*

**Int. 1399** – *Providing general right to request flexible work arrangements, with domestic violence and caregiver provisions*

I am a labor economist, an associate of the Economic Policy Institute in Washington, D.C., and a senior research analyst for the Project for Middle Class Renewal at the School of Labor and Employment Relations at the University of Illinois, Urbana-Champaign (on leave from Penn State University, Abington College). I study all issues pertaining to work hours, both the causes and consequences of time at work in the labor market.

I write to support the five bills proposed today, as an academic researcher (and also as someone who has experienced at least some scheduling instability firsthand in my formative years in hourly paid jobs). I have analyzed data from two large nationally representative surveys—the U.S. Current Population Survey and the General Social Survey, plus a recent poll of the employed, nationally and within certain states, conducted by Public Policy Polling (PPP) for the Employment Instability Network at the University of Chicago. I have reviewed many studies of work hours and schedules and their various consequences, particularly for employees, but also for the labor market more generally.

The timing for the proposed **Fair Workweek Legislation** could not be better for New York City—or for any other city or state, for that matter. That is for four main reasons:

1. Evidence shows that irregular, variable, and/or short-notice work scheduling is pervasive in the food services and production industry (see **Table 1**)—affecting 21 percent of employees, higher than the national average across all industries (16 percent) and approaching the share of retail trade employees affected by irregular work schedules (29 percent).
2. Perhaps relatedly, the rate of involuntary part-time employment (“part time for economic reasons”) remains stubbornly high, particularly recently for the specific “reason” given that workers were “only able to find part-time work.” This is especially the case in two industries: retail trade (see **Figure A**) and leisure and hospitality (which includes eating and drinking establishments) (see **Figure B**). Indeed, because part-time jobs are associated with greater instability in weekly work schedules (EINet 2015), the apparent structural change, whereby employers are now relying more on part-time jobs, means that more workers will likely face greater schedule instability than if they were in the full-time jobs they prefer to be in. Workers who report their typical workweek as “hours vary” are more prevalent in the food services and production industry than in any other industry except agriculture (PPP polling, EINet 2015) (see **Figure C**). Together, this means that workers employed in this industry face relatively more erratic schedules generally, but particularly if they are not in the full-time jobs they prefer to be in.
3. Available evidence suggests that when workers work “irregular” or “on-call” hours (and also, to some degree, when they work “rotating” or “split” shifts), they have significantly greater difficulty balancing or integrating work with family responsibilities than those with more regular work schedules (see **Table 2**). In the entertainment/ recreation industry (which includes eating and drinking establishments), 29 percent of employees work irregular/on-call or rotating/split shifts,

as do 27 percent of employees in retail, as compared with 17 percent of workers across industries nationally (see national poll, in EINet 2015).

4. Legislation to address these ongoing, detrimental developments for many workers have languished at the federal level, but several municipalities and a few states have moved forward (including the effort spearheaded by the attorney general of New York with seven other states following suit) on their own in addressing this with innovative policies. We are more than 7 years into an economic recovery and expansion that has seen continuous new net job creation, but the quality of at least some of these jobs is deteriorating, leaving many employees unable to share in the prosperity. Despite great progress in reducing unemployment, both nationally and in New York City, a historically high level of “underemployment” and hours mismatches persists—with too high a share of workers still wanting more income and willing to put in longer work hours but unable to.

This should and could quite easily be remedied in ways that would not unduly burden employers, harm consumers, or threaten the ongoing economic expansion, and that would, on balance, benefit tens of thousands of workers’ health, well-being, and daily functioning at their jobs and in their homes. Indeed, demonstrating that the benefits outweigh the costs of this remedy might inform other localities and nudge other industries to move in this direction, even without legislation (see Ben-Ishai 2016; Alexander and Haley 2015; Boushey and Ansel 2016; Dickson, Bruno, and Twarog 2015; Carrillo et al. 2016; Cauthen, Case, and Wilhelm 2015; City of Seattle 2016; Luce, Hammad, and Sipe 2014; King 2016; Smalley 2016).

The findings of my research in particular support a general right to request alterations in hours and schedules in cases where new or more intensive caregiving requirements have arisen for an employee. While some workers are sufficiently privileged to be granted this informally or contractually, many employees lack this right at their jobs. Indeed, this “positive” or “employee-centered” flexibility—better matching of individuals’ preferred schedules and hours—has been demonstrated to promote greater job and life satisfaction among workers, which in turn improves their job performance, and, thus, their employers’ performance. On the flip side, providing workers with very short advance notice of their schedules—particularly when the schedule changes are unwelcome (and often occurring in real time while at the workplace)—undermines workers’ well-being and, presumably, their performance. Some professional and technical jobs by their nature have an element of unpredictability and short notice, but these jobs are typically compensated for such risk or burden (otherwise many fewer would enter or stay in such jobs). Thus, it would be sensible to include an additional cost incentive in such a calculation to discourage employers from instinctively or overly relying on a strategy of such “cost-shifting” from the business to employees and their families.

The proposed legislation (Int. 1399) is considered a “soft touch” approach to improving scheduling. It simply requires employers to engage in a process of responding to “requests,” which may be limited in number for any particular employee in a given year. The requests must be considered, but can be rejected for justifiable business cause. There is widespread evidence that when their work schedules are more accommodative than fixed in stone, hourly employees gain significant benefits not just to their work–family balance, but to their work stress, fatigue, and general happiness levels—for example, having flexible start and end times and, particularly, the ability to take time off during work. Indeed, recent research suggests that such employee-centered flexibility directly counters the ill effects of irregular/on-call shift work (Golden and Kim 2017).

Given the elevated numbers of involuntary part-time workers, it is also sensible to require that, when more hours become available (because of a surge in customers, orders, or business), existing qualified (trained) employees in the workplace be offered these additional hours first—with some time window to respond—before going to an outside contractor or hiring a new employee. Indeed, many employers do this already on their own as a human resource practice. Some employers are now starting to or at least considering re-converting part-time positions back into full-time jobs, with all the status and compensation associated with a full-time job. The ordinance would not require employers to offer hours in cases where they would have to pay an overtime premium for those additional hours (imposing an undue cost burden); the requirement would apply only to straight time. Nor would the ordinance require automatic inclusion in benefit plans for any employee taking up the extra hours.

New York City has the same exact U-6 rate of “labor underutilization” as the United States as a whole does when adding in the proportion of the labor force that is “part-time for economic reasons” (BLS 2017). The involuntary part-time work rate is about 4 percent nationally. While this is still above its expected level in the current economic expansion, it grossly understates the potential benefit of instituting a process such as that proposed in Int. 1395, given that many part-time workers want more hours but do not necessarily want permanent full-time hours. Such workers are, nonetheless, underemployed (Li and McCully 2016; Zukin and Van Horn 2015).

This is widespread, but with a gradient on income—employees in lower income households are more likely to be willing to work more hours for more income (see **Figure D**). In 2014 and then again in 2015, the Federal Reserve Board sponsored the collection of survey data that was published in *Survey of Household Economics and Decisionmaking* (SHED). The survey asked

respondents whether they would prefer the same, fewer, or more hours of work at their current wage rate. It found that about 33 percent of all workers—and as many as 49 percent of part-time workers—would be willing to work more hours to earn more income. (A *YouGov* poll, conducted in both 2014 and 2015, found, similarly, that almost half of those surveyed would be “willing to work one more day each week to receive 20 percent more income.”) This willingness was slightly higher among younger workers, Hispanics, and those with lower family incomes, but was equal across gender. As the economy improved in 2015, this level ticked downward, but not by much. The survey also found that underemployment is particularly high among college students, who often must work to help pay for school expenses—but who also can least afford to experience chronic conflict between their jobs and their class schedules. When we let these students fend for themselves, all too often the result is compromised academic performance or even the inability to stay in school.

Most pertinent to the “access to hours” bill proposed (Int. 1395), the industries and occupations associated with food service and production exhibit rates of underemployment closer to the level of all part-time workers than to the national average of about one-third of workers; more than 47 percent of the workforce in accommodation and food services want more hours of work (see **Figure E**). This is also true for upward of 44 percent of employees in retail trade. The SHED data also show that, by occupation, the underemployment rate for food preparation and serving jobs is over 46 percent and the rate is even a bit higher among retail sales occupations (see **Figure F**). By state, New York has a higher rate of underemployment, 38 percent, than the national average of 33 percent (SHED 2015).

In addition, PPP-conducted polls across various states (Golden 2016) found that in your neighboring state of Connecticut, 30 percent of workers would “prefer to work more hours for additional pay” vs. working the “same hours for the same pay.” In Connecticut, this willingness to work more hours is relatively high in the retail and wholesale industry (see **Table 3**). **Table 4** also shows that, in Connecticut, the percentage of workers who report their typical workweek as “hours vary” is higher in food services and production than in any other industry except agriculture, and is followed closely by retail and wholesale trade. The bills regarding advance scheduling for fast-food workers (Int. 1396) and on-call scheduling for retail employees (Int. 1387) would surely help address this instability in work hours.

While the desire to work more hours is somewhat higher among early career workers and working college students seeking greater incomes (SHED 2015; Lambert, Fugiel, and Henly 2015), this desire is found to some degree across all demographic groups. This is in part a testament to the strong work ethic of Americans. Also, it reflects the evidently incomplete recovery from the Great Recession of 2007–2009 and the failure of labor market wage rates at the middle and lower ends of the spectrum to keep up with growth in labor productivity or other, non-labor sources of income or corporate profitability. It is also partly the result of the absence of labor market institutions that prevent a race to the bottom, such as on-call and short advance notice scheduling practices. **Table 5** (two panels) shows that underemployment is double the overall rate if the worker “sometimes” works on-call. It also shows that underemployment is higher if workers have shorter advance notice time. Finally, **Table 6** (two panels) suggests that in Connecticut, on-call or closely-spaced shifts are more frequent among those workers who have shorter advance notice of their schedules. Thus, the elevated levels of underemployment are interrelated with on-call, short advance notice and “clopening,” which public policy must address *en masse*. The “access to hours” provision (Int. 1395) helps address this shortfall in hours most directly; the advance scheduling and on-call scheduling bills (Int. 1395 and Int. 1387) address it indirectly. In addition, because of their interrelatedness, the on-call and advance notice provisions would work in tandem to help reduce underemployment.

Being underemployed—having fewer than desired hours—actually does not help reduce workers’ work–family conflict, despite the shorter work hours (Golden and Okulicz-Kozaryn 2015). However, those part-time workers who choose part-time status voluntarily do experience less work–family conflict. In contrast, employee-centered types of schedule flexibility have opposite associations with work–family interference (Golden and Kim 2017). Thus, the “right to request” flexible work arrangements and the “right to receive” changes to work arrangements under certain circumstances (per Int. 1399) would likely deliver significant benefits to workers with multiple roles or responsibilities—at very little cost to employers (e.g., Bird 2016).

Underemployment may be further prevented by establishing “minimum hours” requirements. Some companies voluntarily do this, recognizing its advantages; for example, Costco has a stated minimum of 24 hours per week posted at least one week in advance (Peck and Traub 2011). This is common abroad. In the UK, for example, the widespread use of “zero-hours” contracts (which promise no minimum hours of employment) fostered a move on the part of the British government (“BIS 2014-2”) in June 2014 to outright ban the use of exclusivity clauses in such contracts. The International Labor Organization (ILO), the international body that issues and monitors standards for the treatment of workers, advocates for countries to adopt minimum workweeks for part-time workers (Messenger and Wallot 2015). In some countries, a part-time employment contract must indicate a number of working hours. In Algeria, part-timers must receive not less than half of the statutory working time. In Denmark, collective agreements prescribe a minimum of 15 hours per week for part-time work. France provides a minimum

target of 24 hours per week for part-time workers. ILO analysts recommends both improved treatment of part-time employees and curbing the incidence of involuntarily taken part-time jobs (Messenger and Wallot 2015); the ILO's policy recommendations include stipulating appropriate penalties in the event of noncompliance with a country's minimum labor standards and mitigating the vulnerability of "marginal" part-time workers, who generally work less than 15 hours a week, by including a fixed minimum compensation rate for "on-call" times not worked. In the United States, the Washington, D.C., Council recently passed the country's first "guaranteed minimum hours" law establishing a 30-hour minimum workweek for janitors in large commercial buildings. Similar legislation has been proposed in the Jersey City, NJ, City Council for janitors, security guards, and maids, and in the State of Connecticut for its State Building maintenance workers. Finally, any "right to request" could include requesting that employers formally consider an employee's minimum (and maximum) workweek. This would effectively eliminate "zero-hours" contracting, in practice, if that is what an employee prefers and if the employer lacks a valid business operations reason to deny. Note that this same right to request encourages a process to adjust work hours downward, not just upward. While overemployment is not as pervasive as underemployment, and while it is higher in sectors with more salaried than hourly jobs, neither is it trivial in the retail and food and accommodation industries (see Figure E). If the 2 to 3 percent of overemployed workers in those industries were able to adjust their hours downward, this could well create more available work and hours for those underemployed who seek more hours for more income.

Why does curbing underemployment matter?

- Underemployment creates daily coordination challenges when employees are forced to try to juggle two or more part-time jobs—particularly when those jobs come with either unpredictable or variable schedules, as they often do among retail workers (McCrate, Lambert, and Henly 2015). Prohibiting on-call scheduling for retail employees (Int. 1387), requiring advance scheduling for fast-food workers (Int. 1396), and placing restrictions on "clopening" (Int. 1388) would all help employees effectively execute their job duties for their employers while reducing work–life conflicts.
- Underemployment is compounded by commuting inefficiencies, the wage penalty, and benefits ineligibility faced by part-time employees when compared with their full-time counterparts (Glauber 2014; Zukin and Van Horn 2015).
- Evidence shows that involuntary part-time working and underemployment generally have adverse effects on employee health and well-being so that their level of health and well-being is more similar to that of someone who is unemployed than to that of someone who is employed at full-time hours (Golden and Okulicz-Kozaryn 2015; Bell and Blanchflower 2013; Maynard and Feldman 2011). Providing more direct access to more work hours or shifts for fast-food workers (Int. 1395) would help reduce these adverse effects among involuntary part-time workers.
- Moreover, underemployed workers do not experience any reduction in work–family conflict, despite their shorter work hours, whereas voluntary part-time workers do (Golden 2015b). Thus, greater *Access to Hours* would not harm work–family time conflict, while a *General Right to Request with Caregiver Provisions* would certainly help such efforts.
- All the adverse effects of underemployment add up to indirectly translate into lower employee job performance and retention rates (Bell and Blanchflower 2013; McKee-Ryan and Harvey 2011). Indeed, a study of a national retail clothing chain found that managers who concentrated allotted hours on their existing workforce had 19 percent lower turnover rates than managers who did not (Lambert and Henly 2012). Thus, access to more hours not only among those in the fast-food industry, but in other industries as well—perhaps pursued by employees through the more general right to request rule (Int. 1399)—would in the longer run, not harm employers' bottom lines at all.

Finally, the focus of the on-call bill (Int. 1387) on the retail industry and on creating minimum advance notice of at least 3 days before a shift or change in schedule, are warranted. Tables 9 and 10 show that, relative to the average across industries (in the State of Connecticut), the retail and wholesale trade industry accounts for a disproportionately greater share of workers who currently receive less than 2 weeks advance notice of their schedules and whose schedules are determined entirely by their employer. Moreover, the retail and wholesale trade industry has a higher incidence of advance notice being less than 2 weeks and a greater frequency of employers changing employees' schedules. **Table 7** shows that retail and wholesale trade workers in Connecticut are less likely to "never" work on-call—although on-call work is more likely to be occasional, whereas in food services and production, this is more "regularly" the case. (These proportions for retail would surely all be more pronounced had it not been grouped for expediency with wholesale trade.) In addition, **Table 8** shows that those employed in retail trade and in food services and production are less likely than the average employee to decide their own schedules and more likely to have their schedules decided by their employers with little or no input from the employee. **Table 9** illustrates that the retail and wholesale trade industry has a higher incidence of short advance notice, of less than 2 weeks, and a greater frequency of employers changing employees' schedules. Finally, **Table 10** shows that Connecticut retail and wholesale trade workers are less likely to "never" work on-call shifts than workers in most other industries.

Discouraging this current cost-shifting of uncertainty to employees, via on-call or short notice scheduling, can be accomplished with enforced bans or, alternatively, with predictability pay measures (for the last-minute scheduling adjustments, early dismissal, or call-offs without pay). This would not only discourage the use of such scheduling—without a resulting in loss of business sales, production, or even jobs—but it would offer just compensation for employees for this working condition, for which the labor market is clearly not providing to most workers, and particularly not to hourly workers in retail and food services. If the costs of compliance can be limited by streamlining procedures so they are not too cumbersome (using the rapidly developing scheduling technologies in place of requiring a paper trail of written documents), and if the new minimum standards do not hinder, chill, or replace the informal arrangements already practiced by the many “high road” employers with employees in New York City, employees could benefit immediately, and employers could benefit, too, in the long run. The result would be an end to the current cost-shifting and a more equitable sharing of the rewards from improved efficiencies in the intensively competitive fast-food and retail industries.

TABLE 1

**Irregular work schedules are more pervasive in the food services and production and retail industries than in all other industries (except the highly seasonal and weather-determined agriculture industry)**

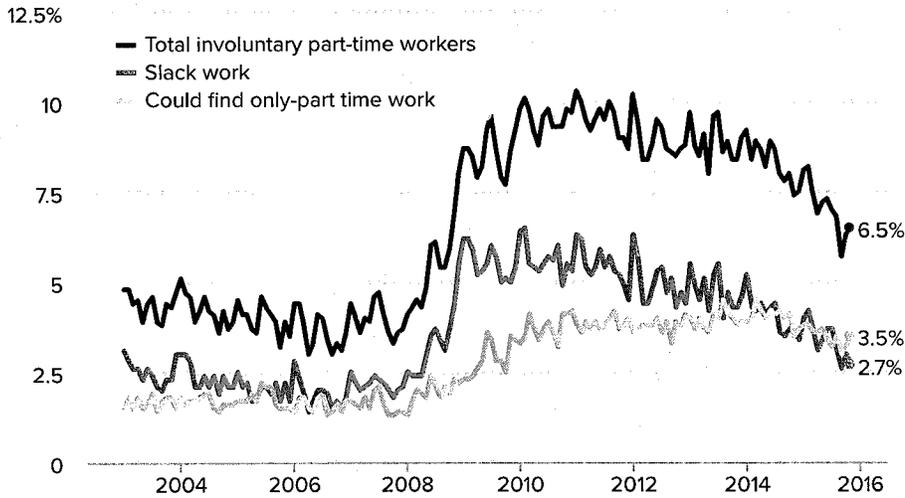
Type of Shift	Industry									
	Base	Professional Services	Retail or wholesale trade	Education, healthcare, or a not-for-profit organization	Construction or manufacturing	Transportation or utilities	Agriculture	Food services or production	Something else	
<i>Regular day shift</i>	67%	71%	44%	81%	77%	58%	43%	40%	60%	
<i>Evening shift</i>	5%	3%	6%	4%	—	9%	5%	18%	5%	
<i>Night shift</i>	3%	3%	3%	1%	5%	6%	—	12%	—	
<i>Rotating shift</i>	5%	1%	12%	1%	8%	8%	—	8%	8%	
<i>Split shift</i>	3%	3%	3%	1%	—	8%	9%	—	3%	
<i>Irregular schedule</i>	16%	16%	29%	9%	10%	7%	42%	21%	20%	
<i>Something else</i>	2%	2%	2%	2%	—	3%	—	—	3%	

**Note:** The table shows responses of 500 working adults to the question, “Thinking of your main job, which of the following best describes the hours you usually work: a regular day shift, an evening shift, a night shift, a rotating shift, a split shift, an irregular schedule, or something else?”

**Source:** Public Policy Polling, December 2015 (80 percent phone survey, 20 percent Internet survey)

FIGURE A

### Share of persons employed in retail who are involuntarily part time, by reason, 2003–2015

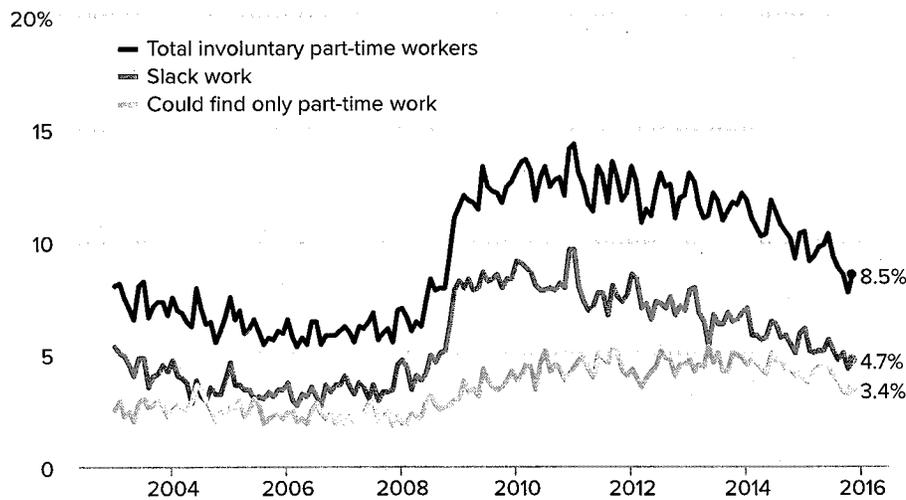


**Note:** Involuntary part-time workers are those classified as “part time for economic reasons” by the Bureau of Labor Statistics. “Slack work” refers to a reduction in hours in response to unfavorable business conditions.

**Source:** Author’s analysis of Bureau of Labor Statistics Current Population Survey public data series

FIGURE B

### Share of persons employed in leisure and hospitality who are involuntarily part time, by reason, 2003–2015

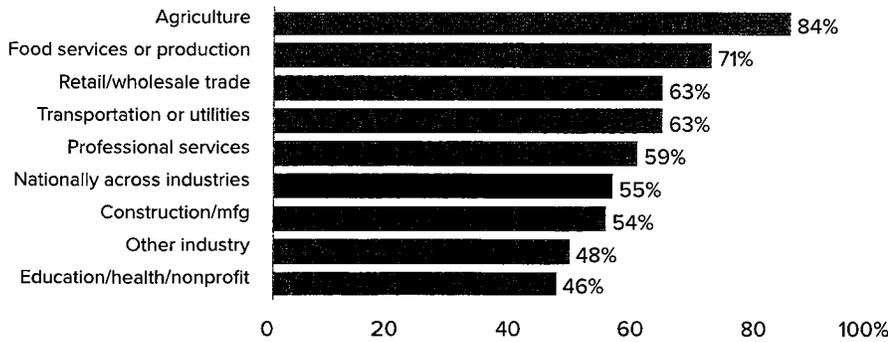


**Note:** Involuntary part-time workers are those classified as “part time for economic reasons” by the Bureau of Labor Statistics. “Slack work” refers to a reduction in hours in response to unfavorable business conditions.

**Source:** Author’s analysis of Bureau of Labor Statistics Current Population Survey public data series

FIGURE C

### Share of workers in given industries who told pollsters that their hours varied from week to week, 2014



Source: Employment Instability Researchers Network Measurement Working Group, PPP polling, United States, December 9–11, 2014

TABLE 2

### Workers on irregular/on-call schedules have greater work–family conflict and work stress

	Full sample		Salary workers		Hourly workers		Other workers	
	Work-family conflict coef.	Work stress coef.						
<b>Respondent income</b>								
<\$22,500 (ref.)								
\$22,500–\$39,999	0.0687	0.0246	0.0514	0.0349	0.144**	0.0342	-0.101	0.0575
\$40,000–\$49,999	0.151*	0.205**	0.149	0.263**	0.192*	0.153	-0.145	-0.00553
\$50,000–\$59,999	0.273***	0.203**	0.239*	0.176	0.388***	0.241*	0.0456	0.275
Over \$60,000	0.291***	0.125*	0.263**	0.127	0.445***	0.0992	-0.100	0.0116
<b>Working hours</b>	0.0134***	0.0122***	0.0192***	0.0151***	0.00911***	0.0101***	0.0165***	0.0138***
<b>Pay status</b>								
Salaried (ref.)								
Hourly	-0.117**	-0.0880*						
Other	-0.00664	-0.204***						
<b>Work schedule</b>								
Day shift (ref.)								
Afternoon shift	0.236**	0.0400	0.303	0.123	0.199*	-0.0276	0.508	0.749*
Night shift	0.320***	0.0152	0.364*	-0.138	0.337***	0.0532	0.0383	-0.0123
Irregular/on-call	0.438***	0.132*	0.618***	0.117	0.473***	0.212*	0.131	0.0326
Rotating shift	0.352***	0.0609	0.249	-0.0436	0.348***	0.0395	0.540	0.639*
Split shift	0.426***	0.0399	0.264	-0.0945	0.535***	0.150	0.0399	-0.433
<b>R-Squared</b>	0.135	0.073	0.184	0.083	0.096	0.047	0.176	0.196
<b>Observations (n=)</b>	3,800	3,799	1,399	1,399	1,979	1,977	422	423

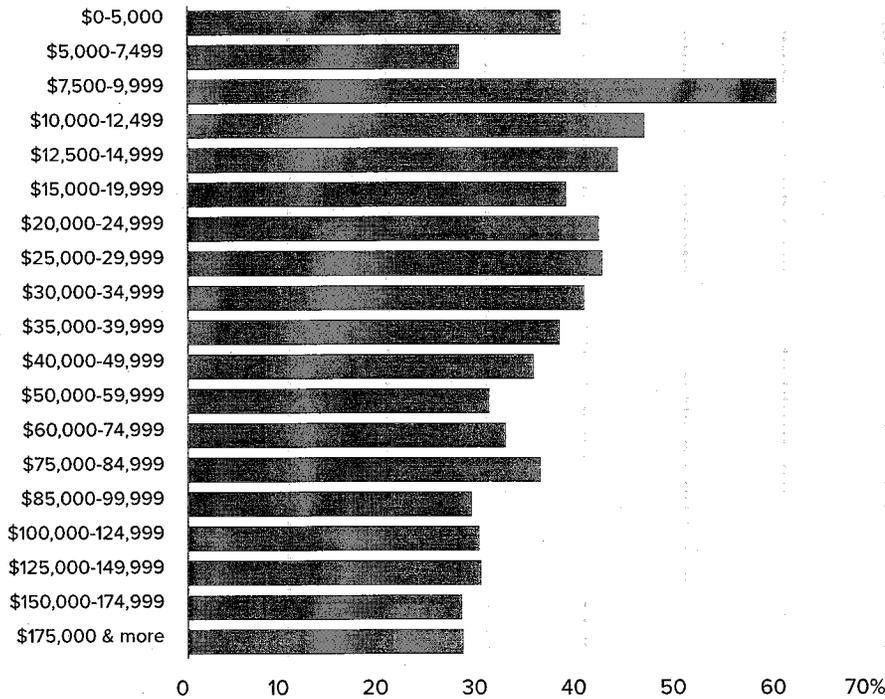
Note: Asterisks denote tested significant at \*\*\*p<.001, \*\*p<.01, \*p<.05. "Regular" shift includes day, afternoon, and night shifts. All models were controlled for education, survey year, age, age square, race, marital status, presence of a preschool child, and years on the job.

Source: General Social Survey Quality of Worklife Supplement (NIOSH), pooled years 2002, 2006, and 2010

FIGURE D

## Underemployment is skewed toward lower-income households

Unemployment rate by household income level, May 2014



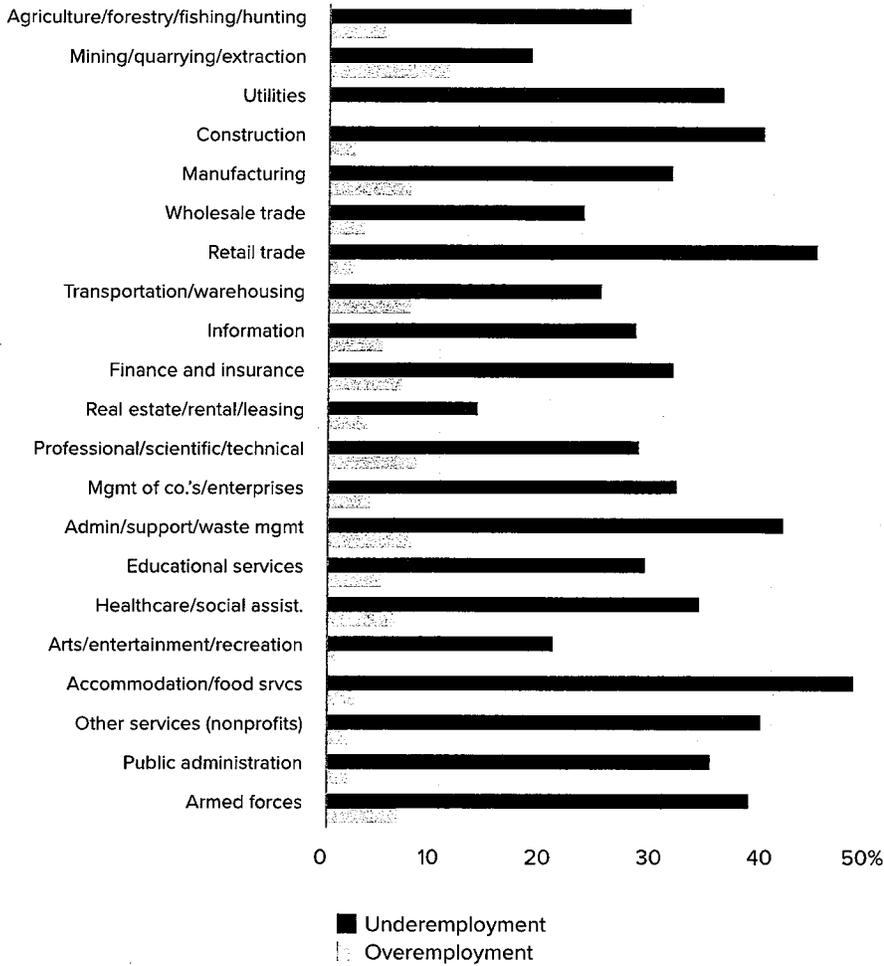
**Note:** SHED survey, May 2014 (n = 2,846), percentage of workers who prefer to “work more hours for more money” rather than “work the same number of hours that you currently work” or “work fewer hours for less money” when asked, “If you were paid the same hourly rate regardless of the number of hours you work, would you prefer...?”

**Source:** Federal Reserve Board Survey of Household Economics and Decisionmaking (SHED), May 2014

FIGURE E

## Underemployment is highest in the accommodation and food services industry and second highest in retail trade

Underemployment and overemployment rate by industry, May 2014

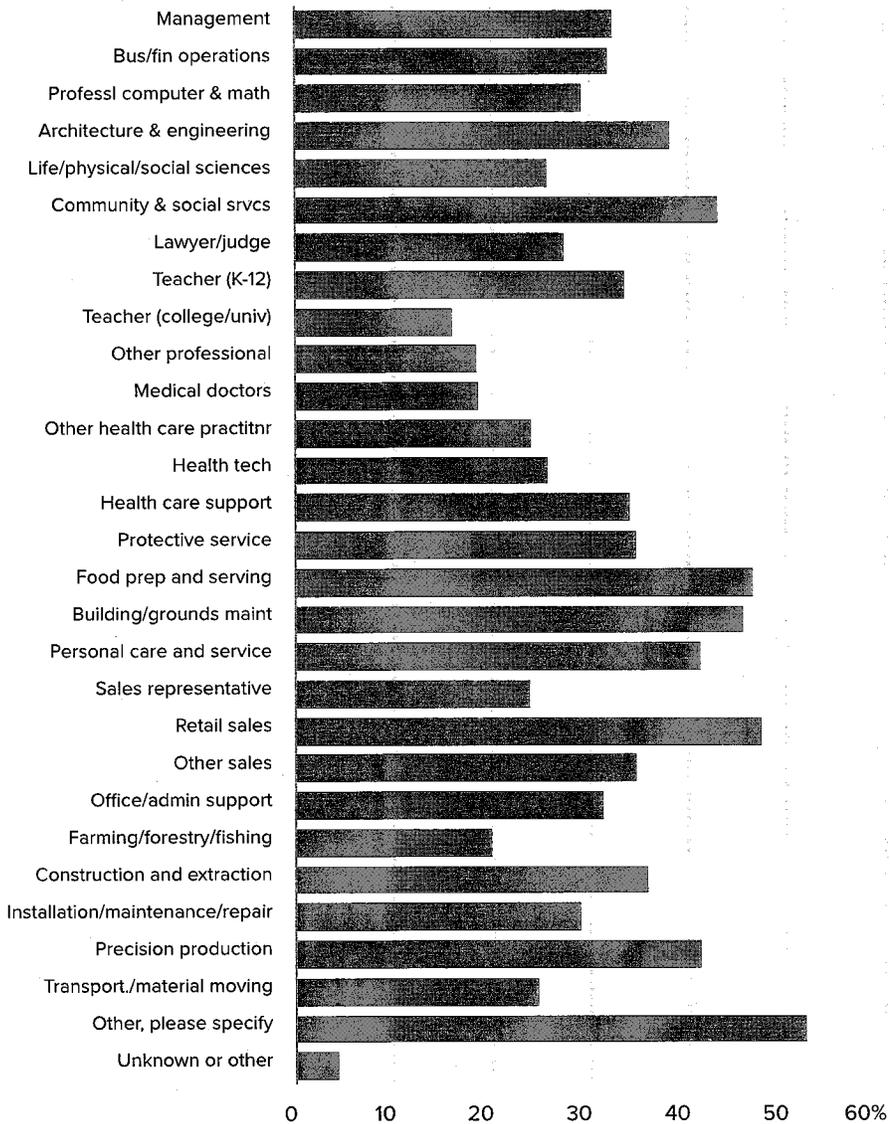


**Note:** SHED survey, May 2014 (n = 2,846), percentage of workers who indicate they are underemployed (prefer to “work more hours for more money”) and overemployed (prefer to “work fewer hours for less money”) when asked, “If you were paid the same hourly rate regardless of the number of hours you work, would you prefer...?”

**Source:** SHED survey, May 2014

FIGURE F

## Underemployment by occupation is relatively high among retail sales and food preparation and serving employees



**Note:** SHED survey, May 2014 (n = 2,846), percentage of workers who indicate they are underemployed (prefer to “work more hours for more money”) and overemployed (prefer to “work fewer hours for less money”) when asked, “If you were paid the same hourly rate regardless of the number of hours you work, would you prefer...?”

**Source:** SHED survey, May 2014

TABLE 3

**In Connecticut “willingness to work more hours” is higher in the retail and wholesale industry than in most other industries**

	Industry										
	Base	Health care	Retail or wholesale trade	Education or a not-for-profit organization	Food services or production	Hospitality or cleaning services	Professional services	Construction or manufacturing	Transportation or utilities	Agriculture	Another industry
<b>Fewer/More Hours Preference</b>											
Prefer fewer hours even if it means earning less money	33%	22%	12%	8%	9%	-	2%	4%	12%	26%	16%
Prefer the same hours for the same pay	57%	43%	52%	70%	70%	11%	52%	57%	45%	51%	65%
Prefer to work more hours for additional pay	30%	34%	36%	21%	21%	89%	35%	38%	32%	17%	19%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 4

**In Connecticut, the percentage of workers who report their typical workweek as “hours vary” is higher in the food services and production industry than in any other industry except agriculture**

	Industry								
	Base	Professional services	Retail or wholesale trade	Education, healthcare, or a not-for-profit organization	Construction or manufacturing	Transportation or utilities	Agriculture	Food services or production	Something else
<b>Does # of hrs Vary?</b>									
Yes	53%	50%	63%	46%	54%	63%	64%	71%	45%
No	45%	41%	37%	54%	46%	37%	36%	29%	52%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 5A

**In Connecticut, underemployment is greater among those workers who at least “sometimes” work on call or who have relatively shorter advance notice of schedules**

	Base	On-Call Shifts How Often			
		Regularly work on-call shifts	Sometimes work on-call shifts	Rarely work on-call shifts	Never work on-call shifts
<b>Fewer/More Hours Preference</b>					
Prefer fewer hours even if it means earning less money	13%	24%	14%	13%	11%
Prefer the same hours for the same pay	57%	56%	27%	57%	62%
Prefer to work more hours for additional pay	30%	20%	59%	30%	27%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 5B

### In Connecticut, underemployment is greater among those workers who at least “sometimes” work on call or who have relatively shorter advance notice of schedules

	Base	Work Schedule How Far Advance						Schedule never changes
		One day or less in advance	2-3 days in advance	4-7 days in advance	1-2 weeks in advance	3-4 weeks in advance	4 or more weeks in advance	
<b>Fewer/More Hours Preference</b>								
Prefer fewer hours even if it means earning less money	13%	30%	9%	13%	2%	20%	8%	12%
Prefer the same hours for the same pay	57%	31%	56%	65%	75%	59%	67%	54%
Prefer to work more hours for additional pay	30%	39%	34%	21%	22%	21%	24%	34%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 6A

### In Connecticut, employees who receive shorter advance notice of their schedules more frequently work on-call or closely-spaced shifts

	Base	Work Schedule How Far Advance						Schedule never changes
		One day or less in advance	2-3 days in advance	4-7 days in advance	1-2 weeks in advance	3-4 weeks in advance	4 or more weeks in advance	
<b>On-Call Shifts How Often</b>								
Regularly work on-call shifts	10%	44%	4%	22%	8%	2%	11%	1%
Sometimes work on-call shifts	10%	19%	26%	5%	10%	12%	2%	7%
Rarely work on-call shifts	13%	12%	18%	19%	25%	15%	17%	7%
Never work on-call shifts	67%	26%	51%	54%	56%	71%	71%	84%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 6B

### In Connecticut, employees who receive shorter advance notice of their schedules more frequently work on-call or closely-spaced shifts

	Base	Work Schedule How Far Advance						Schedule never changes
		One day or less in advance	2-3 days in advance	4-7 days in advance	1-2 weeks in advance	3-4 weeks in advance	4 or more weeks in advance	
<b>Closely-Spaced Shifts How Often</b>								
Regularly work closely-spaced shifts	10%	30%	2%	29%	17%	4%	4%	2%
Sometimes work closely-spaced shifts	15%	19%	43%	17%	13%	21%	24%	5%
Rarely work closely-spaced shifts	21%	23%	39%	20%	31%	32%	11%	15%
Never work closely-spaced shifts	55%	28%	16%	34%	39%	43%	61%	78%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 7

**In Connecticut, the retail and wholesale trade industry accounts for a disproportionately greater share of workers who currently have less than 2 weeks advance notice of their schedules and whose schedules are determined entirely by their employers**

Industry	Base	Work Schedule How Far Advance							Schedule never changes
		One day or less in advance	2-3 days in advance	4-7 days in advance	1-2 weeks in advance	3-4 weeks in advance	4 or more weeks in advance		
Health care	22%	30%	11%	11%	15%	40%	21%	24%	
Retail or wholesale trade	8%	9%	12%	14%	14%	11%	1%	5%	
Education or a not-for-profit organization	29%	20%	6%	26%	29%	28%	48%	31%	
Food services or production	5%	2%	2%	21%	14%	-	-	1%	
Hospitality or cleaning services	1%	-	14%	-	1%	-	1%	0%	
Professional services	13%	14%	7%	9%	17%	10%	12%	15%	
Construction or manufacturing	6%	6%	23%	1%	2%	3%	1%	7%	
Transportation or utilities	4%	10%	5%	1%	1%	4%	3%	4%	
Agriculture	1%	4%	1%	-	-	-	2%	1%	
Another industry	11%	6%	16%	18%	6%	5%	12%	12%	

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 8

**Those employed in retail trade and in food services and production are less likely than the average employee to decide their own schedules and more likely to have their schedules decided by their employers with little or no input from the employee**

How Work Hours Decided	Industry										
	Base	Health care	Retail or wholesale trade	Education or a not-for-profit organization	Food services or production	Hospitality or cleaning services	Professional services	Construction or manufacturing	Transportation or utilities	Agriculture	Another industry
Starting and ending times are decided by your employer with little or no input from you	32%	38%	43%	52%	21%	11%	23%	55%	56%	70%	21%
Starting and ending times are decided by your employer but with your input	31%	32%	34%	31%	78%	82%	32%	25%	25%	-	45%
Decide your own starting and ending times with certain limits	23%	23%	14%	16%	3%	-	42%	24%	9%	12%	22%
Employer free to decide when you start and end work	7%	4%	5%	1%	-	-	3%	1%	-	12%	1%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 9A

**The retail and wholesale trade industry has a higher incidence of advance notice of less than 2 weeks and a greater frequency of employers changing schedules**

	Industry										
	Base	Health care	Retail or wholesale trade	Education or a not-for-profit organization	Food services or production	Hospitality or cleaning services	Professional services	Construction or manufacturing	Transportation or utilities	Agriculture	Another industry
<b>Work Schedule How Far Advance</b>											
One day or less in advance	16%	12%	11%	7%	3%	-	11%	8%	26%	41%	5%
2-3 days in advance	11%	4%	12%	2%	3%	21%	4%	29%	10%	13%	11%
4-7 days in advance	13%	6%	23%	12%	57%	-	6%	1%	2%	-	20%
1-2 weeks in advance	11%	7%	16%	16%	31%	6%	12%	4%	3%	-	6%
3-4 weeks in advance	7%	12%	9%	7%	-	-	5%	3%	7%	-	3%
4 or more weeks in advance	2%	9%	1%	16%	-	3%	9%	2%	6%	17%	10%
Schedule never changes	43%	40%	25%	47%	8%	6%	49%	51%	47%	20%	46%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

TABLE 9B

**The retail and wholesale trade industry has a higher incidence of advance notice of less than 2 weeks and a greater frequency of employers changing schedules**

	Industry										
	Base	Health care	Retail or wholesale trade	Education or a not-for-profit organization	Food services or production	Hospitality or cleaning services	Professional services	Construction or manufacturing	Transportation or utilities	Agriculture	Another industry
<b>Employer Change Work Hours</b>											
Don't receive a work schedule	28%	30%	17%	21%	9%	-	45%	35%	26%	17%	36%
Employer regularly changes your hours after the work schedule has been posted	9%	5%	13%	5%	43%	81%	3%	4%	19%	24%	1%
Employer sometimes changes your work hours	17%	19%	22%	17%	21%	7%	13%	12%	14%	-	27%
Employer rarely changes your work hours after the schedule has been posted	21%	20%	32%	44%	22%	-	13%	24%	30%	36%	9%
Employer never changes your work hours after the schedule has been posted	11%	20%	8%	19%	-	11%	12%	24%	11%	17%	27%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

FIGURE 10

**Connecticut retail and wholesale trade workers are less likely to “never” work on-call shifts than workers in most other industries**

	Industry										
	Base	Health care	Retail or wholesale trade	Education or a not-for-profit organization	Food services or production	Hospitality or cleaning services	Professional services	Construction or manufacturing	Transportation or utilities	Agriculture	Another industry
<b>On-Call Shifts How Often</b>											
Regularly work on-call shifts	10%	11%	4%	11%	41%	-	4%	4%	16%	-	3%
Sometimes work on-call shifts	18%	19%	12%	1%	5%	81%	7%	5%	12%	45%	6%
Rarely work on-call shifts	15%	9%	25%	4%	26%	7%	11%	12%	16%	21%	31%
Never work on-call shifts	57%	61%	56%	83%	57%	11%	78%	79%	62%	32%	60%

Source: Survey of 456 Connecticut workers, conducted March 27–April 2, 2015

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See related work on **irregular-work-scheduling**

See more work by **Lonnie Golden**

For the Record  
3/3/17

**CLASP**

policy solutions that work for low-income people

**Testimony of the Center for Law and Social Policy (CLASP)  
Before the Committee on Civil Service and Labor**

**March 3, 2017**

**Re: Int. 1384, Int. 1396, Int. 1395, Int. 1388, Int. 1387, and Int. 1399 (“Fast Food and Fair Workweek Legislation”)**

The Center for Law and Social Policy (CLASP) is a national organization that works to improve the lives of low-income people by developing and advocating for federal, state, and local policies that strengthen families and create pathways to education and work. As a part of our efforts to improve job quality for low-wage workers, CLASP has done extensive research and policy analysis on issues related to fair work schedules.

We strongly support Int. 1384, Int. 1396, Int. 1395, Int. 1388, Int. 1387, and Int. 1399. Research demonstrates that many service workers, particularly low-income workers, in New York City are struggling with the effects of volatile work schedules and inadequate hours. Unstable scheduling creates stress for working families; makes it difficult to pay the bills; and limits workers’ ability to pursue higher education, hold a second job, or perform caregiving obligations. With the passage of this legislation, New York City will join a handful of leading jurisdictions in the country who are improving job quality by stabilizing workers’ schedules.

While a variety of factors perpetuate unfair scheduling, one unifying issue that underpins the problem is lack of worker power and voice.<sup>1</sup> This is why Int. 1384 is a critically important piece of the puzzle, both for fair scheduling and for job quality more broadly. The bill would empower fast food workers to join together with one another in order to increase their chances of being heard on the job and limit the potential for employer retaliation – a major obstacle to worker organizing. Int. 1399, which would apply to all workers regardless of industry, also helps to elevate worker voice by giving workers the right to request flexible work arrangements and protecting them from retaliation. The bill also strengthens NYC’s protections for workers experiencing personal or family emergencies by requiring employers to grant requests if the worker experiences emergencies such as domestic or sexual violence.

Int. 1396 addresses a major source of instability for workers in the fast food industry – lack of advance notice of schedules. Without advance notice, many working families experience severe financial insecurity. A recent study found that nearly 1 in 5 low-income working parents in NYC who experience volatile scheduling (including less than two-weeks notice) reported experiencing hunger as a result of inability to buy sufficient food.<sup>2</sup> In addition, many working parents who lack advance notice struggle to arrange child care and access child care

subsidies.<sup>3</sup> This bill would have a major impact; in NYC, more than 80 percent of restaurant workers currently receive less than 2-weeks notice of their schedules.<sup>4</sup>

Even as the economy has recovered, many workers in NYC and nationwide struggle to find full-time jobs. Nearly 6 million people in the U.S. are working part-time despite wanting to work full-time, and service industry workers are twice as likely to experience this phenomenon.<sup>5</sup> As with other aspects of job scheduling, workers of color are more likely to experience inadequate hours.<sup>6</sup> Int. 1395 is thus an important piece of legislation for all fast food workers, but particularly for those from communities of color. The bill, which would require employers to offer available hours to existing part-time employees prior to hiring new part-timers, is a commonsense approach to addressing involuntary part-time work. Similar legislation has passed in five other jurisdictions and is being considered around the country.<sup>7</sup>

Although many workers cannot get *enough* hours, the hours they do receive are too often scheduled in such a way that workers' do not have time to rest and recuperate between shifts. Int. 1388 would protect workers from being scheduled for shifts that don't allow for sufficient rest or compensate employees who consent to working under such grueling conditions. Just as overtime pay has long been accepted as a fair and humane policy, so too should the proposal in this bill be considered.

Recently, led by New York Attorney General Eric Schneiderman, Attorneys General from nine states and the District of Columbia, launched a probe into on-call scheduling, reflecting their "collective concern" about the impact of the practice on workers and their families. While this probe has led to numerous employers voluntarily curtailing on-call scheduling, it provides no enforcement mechanisms and still allows low-road employers to continue this practice.<sup>8</sup> Int. 1387 would eliminate the abusive practice of on-call scheduling for retail workers in NYC.

These bills are critically important to NYC workers, particularly the many low-income workers who are concentrated in the fast food and retail industries. Together, this package of bills will both improve working conditions and help workers to have a greater voice in the workplace. At the same time, research and employer experiences suggest that these policies would have few, if any negative effects on their businesses; indeed, many employers who adopt fair scheduling practices find that employee loyalty and retention improves.<sup>9</sup>

CLASP commends members of the Council for introducing these important bills and urges the Committee to support them. Thank you for the opportunity to comment.

Sincerely,



Elizabeth Ben-Ishai, Ph.D.  
Senior Policy Analyst

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## Notes

<sup>1</sup> See Liz Ben-Ishai, Center for Law and Social Policy, “Worker power: a critical component of fair scheduling,” Aspen Institute Blog, 2017. <https://www.aspeninstitute.org/blog-posts/worker-power-critical-component-fair-scheduling/>

<sup>2</sup> Harold Stolper, Community Service Society. *Unpredictable: How unpredictable schedules keep low-income New Yorkers from getting ahead*. 2016. [http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling\\_12\\_19\\_16\\_Final\\_Web.pdf](http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling_12_19_16_Final_Web.pdf)

<sup>3</sup> Liz Ben-Ishai, Hannah Matthews, and Jodie Levin-Epstein. Center for Law and Social Policy. *Scrambling for Stability: the challenges of job schedule volatility and child care*. 2014. <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>

<sup>4</sup> Stolper, 2016.

<sup>5</sup> Lonnie Golden. Economic Policy Institute. *Still falling short on hours and pay*. 2016. <http://www.epi.org/files/pdf/114028.pdf>

<sup>6</sup> Ibid.

<sup>7</sup> Such laws have passed in Seattle and Tacoma, WA and San Jose, Emeryville, and San Francisco, CA. See proposed legislation and enacted laws sections at <http://www.clasp.org/issues/work-life-and-job-quality/scheduling-resources>

<sup>8</sup> Bourree Lam. “The end of on-call scheduling?” *The Atlantic*. 2015.

<https://www.theatlantic.com/business/archive/2015/10/on-call-scheduling-labor/412132/>

<sup>9</sup> Liz Ben-Ishai. Center for Law and Social Policy. *Job Schedules that Work for Businesses* 2014. <http://www.clasp.org/resources-and-publications/publication-1/Job-Schedules-that-Work-for-Businesses.pdf>

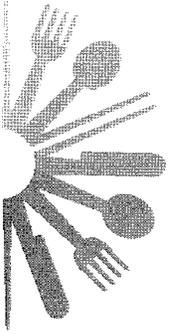
## **In Opposition of the 'Fair Work Week' bill package**

Good morning. My name is Kevin Dugan and I am the New York City Regional Director for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The New York State Restaurant Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for more than 80 years. Our members represent one of the largest constituencies regulated by the City and are a key economic engine, with more than 20,000 eating and drinking establishments located in the five boroughs.

New York City is one of the pillars of the culinary world. Our restaurants employ hundreds of thousands of New Yorkers, the quick-service industry alone employs more than 65,000 individuals across the city, and our members support millions of residents and tourists each year. As one of the most important industries in New York City, its growth and survival should be supported by all levels of New York City government.

Although this package is well intended, I fear this it will hurt those that it has set out to help. Flexibility is a key selling point to many of those who work in the quick-service industry. This package takes away that flexibility. These bills would mandate that restaurants rigidly schedule their employees with 14 days of inflexibility. At first glance this might seem beneficial to the employee, however countless employees rely on their ability to pick up extra shifts when needed. This flexibility often results in greater take home pay. While this legislation doesn't exclusively prohibit this, it does impose onerous fines on restaurant owners who are looking to accommodate this employee's request.

While we don't believe a scheduling mandate is necessary or beneficial to the industry, if the Council does pass a mandate, a scheduling timeline of seven days would make much more sense for all parties involved. This would help the



NEW YORK  
STATE  
RESTAURANT  
ASSOCIATION

employees looking for certainty in their schedules, while also allowing other employees to seek flexibility, and would protect the small business owner against a situation where an employee is suddenly forced to deal with someone leaving the business and not being able to change the schedule for two weeks. While an owner may be able to survive a few days of being short staffed, going two weeks without calling in a replacement is simply untenable.

It's important to remember that many of these franchise owners are small businesses. It's easy to lump these restaurants in with the big corporations they're associated with but these owners are almost always local businesswomen and men who employ individuals who live in their community. The restaurant industry, at every level, survives on razor thin profit margins. Every dollar becomes extremely important and has a large impact on the bottom line. Costs in the restaurant industry are on the rise, making it tougher for restaurant owners to make ends meet. Food costs, labor, and rent are just a few examples of major increases that the industry has been dealing with in New York City. These higher costs have led several restaurants to reduce staff and turn towards automation, hurting the very employees that legislators were hoping to help. As an industry we fully understand that the targets of some bills are things that should be addressed. For example, we do not endorse business practices such as "clopening" or "on-call scheduling" and support practical regulations restricting such practices. However, we do ask that if certain employees would like the opportunity to earn overtime pay and volunteer to take on some of these shifts that they be allowed to do so.

We also have certain reservations on the bill that would require employers to allow service professionals to contribute a portion of their hard-earned salaries to a union-run not-for-profit. We see this as further deepening the divide between the employees and employers. Many employers see their employees as part of their family and treat them as such. We recognize that in some unfortunate situations this doesn't happen but the current labor laws in New York protect employees from bad business practices. This bill seems to add an additional layer of superfluous regulation where the penalties again fall on the employer to ensure these donations are getting to the specified source.



NEW YORK  
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RESTAURANT  
ASSOCIATION

We respectfully acknowledge that members of the New York City Council have the best interests of restaurant industry employers and employees in mind. However, we are disappointed that groups, such as ours, that represent employers were not invited to participate in discussions related to the "Fair Work Week" package of legislation before it was introduced. We ask that you listen to some of the concerns the industry has with the hope that we can find workable solutions to some of the issues addressed.

I thank you for the opportunity to testify today. I look forward to future discussions that will protect the owners who help create thousands of jobs and help keep the local economy strong.

Respectfully Submitted,

Kevin Dugan  
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For the Record 3/3/17

**Schedule Instability and Unpredictability and Worker and Family Health and Wellbeing**

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Testimony to the New York City Council  
Committee on Civil Service and Labor  
Chairperson Council Member I. Daneek Miller

Friday, March 3<sup>rd</sup>, 2017

## **Background**

Between 1950 and 1980, the expanding American economy delivered substantial and sustained gains in income to families across the income distribution. A rising tide lifted “all boats.” But, since 1979, only the most affluent families have seen their incomes and wages rise. For the past thirty years, the bottom fifty percent of families by income have seen their incomes remain stagnant. This is the story of rising income inequality.

The American labor market is also increasingly unequal, characterized by extraordinary returns to work at the top of the market but rising precarity and instability at the bottom of the market. This precarity is multi-dimensional, characterized by low-wages, few benefits, short tenure, contingent employment, and non-standard schedules.

While the consequences of these dimensions of precarity have been studied, scholars, policy makers, workers, and advocates have documented a new set of precarious employment practices related to work scheduling that may have serious negative effects on workers and their families.

Many service-sector employers now use a combination of human resource management strategies to closely align staffing with demand. Under this system, employees receive their weekly work schedules as little as a few days in advance, their scheduled work hours and work days may change substantially week-to-week, and employees may have their shifts changed, cancelled, or added at the last minute (Golden, 2001; Appelbaum et al., 2003; Clawson and Gerstel, 2015). Recent estimates suggest that nearly 90% of hourly retail employees experience such instability (Lambert et al., 2014).

Schedule unpredictability and instability are intimately tied to work hour insufficiency. Employees are often scheduled for a small number of hours that are insufficient for an economic living. Employers then offer workers additional shifts, but at the last minute. The only way for employees to get sufficient hours is then to accept these last minute shifts or requests to stay late. Insufficient hours go hand in hand with unstable and unpredictable schedules.

## **Limits of Existing Data and Evidence**

Our conversations with men and women employed in the retail and food service sectors, press accounts, and the testimony of workers make a compelling case that these scheduling practices have negative effects on workers. But, to date, we have lacked the large scale survey data to further examine these effects.

## **Methods**

To fill this gap, we use an innovative survey method to collect data from 17,000 hourly non-managerial retail and food service employees in the United States. Our study, the Retail Work and Family Life Study (RWAFLS), is unique in collecting detailed measures on schedule instability and unpredictability as well as measures of worker and family health, social wellbeing, and household financial security for a national sample of retail workers. To date, we have collected detailed surveys from hourly non-managerial employees at twenty-eight large employers, including eight large national fast food employers.

We report on the prevalence of unstable and unpredictable scheduling practices in this sample, respondent’s preferences for more hours and more regular hours, and then detail the relationships between unstable and unpredictable scheduling practices and outcomes in three key areas: (1) household economic security, (2) worker health and wellbeing, and (3) parenting. We report results

that pool together employees of fast food and retail establishments. However, we also disaggregate and note when the patterns differ for fast food versus other employees.

### **Descriptive Results**

Schedule variability and short-notice are common. The plurality of employees, 41%, report having variable schedules with another 17% reporting a rotating shift. A smaller share, 23% has a regular day-time schedule, while another 8% has a regular evening schedule and 9% have a regular night shift. Over all then, just one-quarter of employees work a regular standard time shift, another 17% work a regular non-standard shift, and nearly 60% work some kind of variable schedule.

Respondents also receive little advance notice of their weekly schedules. One third of employees receive less than one week of notice and another third receive 1-2 weeks.

When we compare fast food employees to retail employees, we see some notable differences in these two dimensions of work schedules. While fast food employees are less likely than other retail employees to report a variable schedule (28% versus 45%), those in fast food have much less advance notice of their work schedules. **Specifically, 90% of fast food employees have less than two weeks of advance notice of their work schedules and 71% have less than one week notice.**

These scheduling experiences are linked in so far as many employees with variable schedules also receive little advance notice. Among employees with a variable schedule, 68% report less than two weeks advance notice of that schedule. **Among fast food employees, that share rises to 89%.**

A significant share of employees also report regularly or sometimes working on-call shifts (30%) or having a work shift cancelled at the last minute (15%). **On-call shifts were somewhat more common among fast food employees, with 38% reporting working such shifts regularly or sometimes.** Approximately half of the employees in our sample reported working “Clopening” shifts, though this share was slightly lower, at about a third, among fast food workers.

It is important to distinguish flexibility from instability. Many white collar and professional workers are able to obtain a desirable “flexibility” in their schedules in which they themselves have some control over when and how much they work. Schedule instability is just the opposite. Employees have very little control over their hours and the variability they experience is not their preference, but rather the result of unilateral employer choices. This is evident when we ask employees how their work schedules are decided. Just 6% of respondents report that they are free to decide their schedule or can decide within limits. In contrast, 57% report that the schedule is decided entirely by their employer and another 32% say it is decided by their employer with some of their input.

We see this lack of schedule control in our data most simply when we tabulate employee reports of their preferences. Overall, 67% of respondents report wanting more hours. Perhaps even more dramatically 83% of employees report wanting more regular schedules (90% of those with variable schedules), with common patterns between fast food employees and other retail employees.

Most respondents are not satisfied with the status quo. Most respondents working hourly jobs in retail and fast food want more hours and more regular schedules.

## **Schedule Instability and Unpredictability and Wellbeing**

These scheduling practices matter. Schedules are an important determinant of economic security, health, and parenting outcomes.

We estimate a set of multiple regression models to examine how key measures of unstable and unpredictable scheduling practices are related to our key outcomes. We test the relationship between (1) schedule type, (2) weeks of advance notice, (3) working on-call, and (4) having cancelled shifts on economic security, respondent health and wellbeing, and maternal time with minor children.

We measure household economic security using two measures. The first is a measure of household income volatility that gauges how inconsistent income is on a week-to-week basis. The second is a standard index of household material hardship that includes instances in which respondents had to go hungry, had utilities shut off, or had to defer needed medical treatment due to cost concerns. We measure health and wellbeing using two additional measures. The first is a standard index of psychological distress. The second is a measure of sleep quality. Finally, we measure maternal time with children based on reports of the frequency of time spent on developmental activities such as reading, homework help, and having meals with children.

Our models adjust for a broad set of respondent characteristics including tenure, wages, income, education, usual hours, age, and race/ethnicity. We also weight our estimates to the nationally representative American Community Survey. Below, we summarize these results and also present predicted probabilities from the models that allow us to compare how exposure to unstable and unpredictable schedules raises the risk of negative outcomes, adjusting for these other respondent characteristics.

### *Advance Notice*

Proposed scheduling legislation requires two weeks advance notice of work schedules. We show that having this notice has real benefits for workers.

There are strong links between having at least two weeks of advanced notice and worker wellbeing. Compared to having less than one week of advance notice, having at least 2 weeks of advanced notice significantly reduces the likelihood of experiencing income volatility and reduces the likelihood of the respondent experiencing material hardships over the past twelve months. For instance, having at least two weeks of advance notice reduced the share of respondents who said that their household income fluctuated from week to week by approximately 10%. Having more advance notice of one's work schedule may make it easier for respondents to maintain a second job, which could help with income smoothing and reduce volatility.

Employees with less than 2 weeks' notice of work schedules were substantially more distressed and sleep-deprived. Respondents who had at least two weeks of advance notice were 25% more likely to report that their sleep quality was good or very good than those with less than a week of notice.

Advanced notice of work schedules is the dimension of schedule unpredictability is directly regulated in the proposed legislation and our work suggests that increasing notice to at least two weeks would make a tangible difference to workers lives.

### *Working "On-Call"*

We also find that employees who report regularly or sometimes (as opposed to rarely or never) being asked to work on-call far worse on all of our key outcome measures.

Those who work on-call report significantly more household income volatility and significantly more exposure to material hardships. For instance, the share of respondents who report "often" working on call who experience material hardship is 18% greater than the share of respondents who "never" work on-call.

Working on-call is also significantly negatively associated with employee health. Respondents who worked on-call have much higher levels of psychological distress and report much worse sleep quality. Finally, mothers who often worked on-call shifts spent significantly less time with their children than otherwise similar mothers who only rarely or never worked on-call shifts.

### *Cancelled Shifts*

Exposure to last-minute shift cancellation also weighed on the wellbeing of respondents in our survey. Respondents who reported having shifts cancelled at the last minute were significantly more likely to report household income volatility and material hardship.

Shift cancellation also significantly raised the risk of psychological distress and lowered sleep quality. Mothers who reported cancelled shifts also reported spending less time with their minor children – symptomatic of the disorganization of daily life imposed by unstable and unpredictable scheduling practices.

### *Cloping*

We also find that respondents who report staffing "clopenings," that is working a closing shift followed by an opening shift and so who have little rest in between, are also negatively affected. These respondents report significantly higher household income volatility and more exposure to material hardship.

Working a clopening is also strongly and significantly associated with more psychological distress and lower sleep quality. Finally, mothers who report working clopenings report spending less time with their children.

### *Schedule Variability*

Having a variable schedule significantly increases the risk of experiencing household income volatility and of experiencing household material hardships. We also find consistent negative links between working a variable schedule and sleep quality and psychological distress.

For working parents, the negative effects of unstable schedules spill over onto their children. Working parents who have variable schedules report spending less time with their children in developmental activities and report higher levels of parenting stress. For example, almost half of working parents with regular day time schedules had a meal with their child every day, but only 1/4 of working parents with variable schedules did. We also saw large effects on helping kids with homework.

In related research, we have interviewed 25 working parents in retail and food services. Those with stable schedules were able to maintain stable routines and care arrangements for their children. Those with unstable schedules were sometimes lucky enough to be able to buffer their children from instability, but only if they had a grandparent or other friend or family member who could be available on call to provide child care. In those cases, the burden of schedule instability was passed on to the grandparent rather than to the child.

But, for many working parents with unstable schedules, their children experienced a great deal of instability. Laura [pseudonym], a mother of four, who worked at a large grocery store chain, had to go through a long list of potential caregivers whenever she got her schedule, could one of her older children pick up her 5-year old? An Aunt? An Uncle? Some of her potential caregivers lived 30 minutes away. She had to scramble. For parents like Laura, kids' routines changed day to day and week to week, mirroring the instability of their parent's work schedule.

### **Policy Implications**

These findings from our research show that the vast majority of retail and fast food employees would prefer more hours and more stable work schedules. Our results also show that unstable and unpredictable work schedules are associated with worse outcomes for employees and their families.

Placing these findings in the context of proposed work scheduling legislation, our research supports the claim that requiring employers to provide workers with at least two weeks of advanced notice of their schedules would benefit workers. Advanced notice of at least two weeks seems likely to improve workers' ability to plan their child care, to combine work with schooling or a second job, and in turn may reduce stress and improve mental health. In fact, we find that having at least two weeks of advance notice is associated with workers' reporting better mental health and more economic security.

Proposed "access to hours" legislation would combat involuntary part-time employment by requiring employers to offer existing employees access to full-time schedules before hiring additional part-time workers. Our study finds that the vast majority of workers stated a desire for more work hours, an aspiration that would be advanced by the current access-to-hours proposals. Access to hours may also serve to indirectly reduce schedule variability which we find increases household economic insecurity, harms worker wellbeing, and reduces mothers' time spent with children.

Finally, we find some of the strongest negative associations between working on-call shifts and clopening shifts and our key measures of household, worker, and family wellbeing. Legislation to prohibit these shifts seems likely to improve the wellbeing of employees.



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**Testimony before the New York City Council Committee on Civil Service and  
Labor  
March 3, 2017**

**Submitted by Sherry Leiwant, Co-President, and Phoebe Taubman, Senior Staff  
Attorney  
A Better Balance: The Work and Family Legal Center**

**Thank you for the opportunity to testify today in support of legislation that will improve working conditions for New Yorkers. Our organization, A Better Balance (ABB), is dedicated to leveraging the power of the law to promote equality and expand choices for women and men at all income levels so that they may care for their families without risking their economic security. Over the past decade, we have advanced legislation in dozens of cities and states around the country to promote fairness in the workplace and value the work of caregiving. A Better Balance also hosts a free legal helpline to assist low-income working New Yorkers with workplace problems related to family leave, sick time, pregnancy discrimination, and caregiving responsibilities. We receive calls from across the tri-state area as well as from individuals all over the nation in response to our advocacy efforts. Our testimony is informed by the experiences of our callers as well as our own experience promoting flexible work arrangements, and we are pleased to support of all the Fair Work Week bills under consideration at today's hearing. We submit this testimony in support of the full package of bills addressing the serious problem of workers' lack of control over their schedules. As an organization dedicated to helping workers balance the demands of work and family, we believe all bills in this package are critical to workers' ability to care for their loved ones while maintaining their economic security.**

## **Intro 1399-2017: Right to Request Flexible Work**

Intro 1399-2017 is the one bill in this package that will apply to all private sector workers in New York City. It does three things: (1) allows workers to request schedule changes or alternate work arrangements and receive a response to the request from their employer, though the employer is not required to grant the request; (2) prohibits retaliation against the worker for making that request; and (3) in certain specifically defined emergency situations, permits the worker to change his or her schedule to address that situation. This law is an important step in increasing workers' ability to address their scheduling needs without requiring employers to do anything but entertain the request and not punish the worker for asking, unless the request is the result of an immediate personal health and safety or caregiving emergency.

**Increasing flexibility in the workplace is a critical need for New Yorkers.** Workplace and demographic trends over the past generation have created a growing tension between work and family responsibilities that harms a majority of workers. As women and mothers have steadily increased their workforce participation the marketplace has demanded longer and less predictable hours of all workers, leading to an ever-tightening time crunch between paying work and the unpaid, and often invisible, work for caring for children, the sick, and the elderly. The squeeze is especially tight in New York City, where full-time workers spend over 49 hours per week working and commuting, giving them the longest combined workweeks in the nation.<sup>1</sup> New Yorkers must manage these long workdays alongside the demands of family care. In New York City, the majority of two-parent households have both parents in the workforce, and 61% of women with children under age six are in the labor force.<sup>2</sup> More workers are also shouldering elder and family care responsibilities, especially as the baby boomer generation ages: more than one in six American workers provides care to an elderly or disabled family member, relative, or friend.<sup>3</sup> This number is even higher for families living below the poverty line<sup>4</sup> and is likely to increase in New York City, where the number of disabled adults over 60 years old is expected to grow by 40 percent over the next twenty years.<sup>5</sup>

Rigid and inflexible workplace rules – and a lack of control over when, where, and how work gets done – make it difficult, if not impossible, for many workers to care for their families without jeopardizing their economic security. A significant majority of workers—88% of low-wage employees and 87% of higher-wage employees—highly value a more flexible workplace.<sup>6</sup> Yet overall, employers have become less likely to provide reduced hours options and career flexibility since 2008, and the proportion of employers offering flexible work options to *all or most* employees is 30 percentage points lower than the proportion who offer the same options to just *some* employees.<sup>7</sup> In New York City, nearly half of workers surveyed in 2015 reported they had no access to flexible work arrangements on the job as a matter of policy.<sup>8</sup> Of those, more than three-quarters (77 percent) said their lives would be “more manageable” if they did.<sup>9</sup> Working caregivers of aging relatives report having even less access to flexible work and perceive significantly lower job security than workers with childcare needs.<sup>10</sup>

The situation is especially dire for low-wage workers who have much less overall control of their work schedule than higher-wage employees<sup>11</sup> yet, on average, experience the time burdens of caregiving more acutely.<sup>12</sup> Over 57 percent of low-income working families are headed by single parents, the vast majority of whom work, and low-income workers are also more likely to provide care to aging parents.<sup>13</sup> Yet nearly 70 percent of low-income workers cannot change their scheduled start or stop time if needed.<sup>14</sup> These workers are particularly vulnerable and report receiving less desirable shifts and fewer hours, or losing their jobs entirely when their childcare falls through.<sup>15</sup> They also are more likely to suffer adverse job actions or job loss because they lack the flexibility to handle family emergencies that require time off but do not qualify for FMLA leave.<sup>16</sup>

**Workplace flexibility offers proven benefits for both employers and employees.**

Research shows that workplace flexibility reduces employee stress, encourages healthier lifestyles, and improves the long-term health of employees.<sup>17</sup> Parents with access to workplace flexibility are more likely to be involved in their children’s education and health care, resulting in numerous long-term benefits.<sup>18</sup> Flexible work that allows for alteration in duties can allow workers to seek adjustments to their job responsibilities,

including travel, which may allow them to be closer, and more responsive on short notice, to family members who require their care. Workplace flexibility also helps to prevent turnover and high attrition rates, saving employers millions of dollars each year.<sup>19</sup>

**Well-founded fears of stigma and retaliation prevent workers from requesting flexible work arrangements.** Despite the increasing need among workers for workplace flexibility, and the proven benefits, too many workers remain afraid to request or take advantage of flexible work options. Research has shown that nearly 80 percent of employees do not take advantage of corporate flexibility policies because they are concerned about jeopardizing their careers.<sup>20</sup> Long work hours and “flexibility stigma” – particularly regarding part-time work – push many professional workers, especially mothers with caregiving responsibilities, out of the workforce.<sup>21</sup> And low-wage workers who have little financial cushion in the case of job loss are even less willing to rock the boat by requesting changes to their work schedules.

A 2015 survey of New Yorkers that ABB worked on with the New York City Comptroller confirms the fear attached to seeking flexible work in our city. Among those surveyed who worked for employers where flexible work was not widely available, 58 percent reported being “uncomfortable” or “very uncomfortable” requesting an alternative schedule.<sup>22</sup> Respondents who sought flexible work arrangements reported receiving negative employment reviews, reductions in hours, and lost promotions, as well as belittling comments from co-workers.<sup>23</sup> This fear of stigma is especially strong among men, who challenge gender-role stereotypes in the workplace when they prioritize care. ABB surveyed over 250 working fathers in 2011 and found that nearly fifty percent would be reluctant to take advantage of flexible work opportunities, and forty percent of them expressed concern about being marginalized or stigmatized by others for using these policies.<sup>24</sup>

This data mirrors the experiences of our helpline callers, who have voiced similar fears and frustrations to ABB. One woman we spoke with in 2015 had consistently worked late, come in early, and covered co-workers’ shifts, even after having a child, thanks to

support from her family. When her son started daycare at a childcare center that was 90 minutes from her workplace, she asked for a slight alteration of her work hours to accommodate dropping him off and picking him up. She was terminated the following week. Another caller was told by his employer that he would have to be available for occasional emergencies, but never received a written schedule. Within a few months, he was regularly being called to work on nights and weekends outside of his normal work hours, which conflicted with his hard-fought visitation time with his son. He asked his employer about returning to his original schedule but was ignored and fired shortly thereafter.

Dena Adams worked at a non-profit for 15 years in a job with regular hours that allowed her to care for her young daughter in the evenings. Shortly after receiving a service award for her loyalty, Dena's position was eliminated and she was told to either accept a position with unpredictable weekend and night hours that made securing childcare nearly impossible, or leave. A single mother, Dena told her employers that she could not leave her daughter alone at night, and tried to negotiate a schedule that would have allowed her to plan childcare arrangements in advance. Her employer refused to engage with Dena or offer an explanation for why they could not grant her request when they allowed her co-worker to adjust his hours to attend school. Instead, they simply repeated, "no." Dena lost her job and spent months looking for work.

**“Right to Request” legislation will help expand access to workplace flexibility.**

Legislation that requires employers to consider employee requests in good faith, and commit an answer and explanation to writing, creates a framework for exploring the feasibility of alternate work arrangements and can reduce the stigma of, and increase access to, workplace flexibility. New Yorkers who presently feel disempowered to pursue flexible work alternatives would feel emboldened by a policy like the one outlined in Intro 1399. According to survey data, 71 percent of New Yorkers who lack a workplace-wide policy would be more likely to request a flexible schedule if all people in their workplace had the option of doing so without fear of retaliation.<sup>25</sup>

This kind of “soft-touch” legislation was enacted in the United Kingdom over a decade ago to grant employees with young or disabled children the right to request flexible schedules from their employers, and later expanded to include parents with minor children or caregivers to adults who live with them, and then, ultimately, all workers. A 2013 government-funded survey in the U.K. revealed that most employers who received requests for flexible work arrangements granted those requests, with only nine percent having turned any down.<sup>26</sup> The survey data also revealed that “a majority of employees who had requested a change to their working patterns had their request accepted (79 percent, with 61 percent having the request accepted without negotiation/ compromise/ appeal and 18 percent having it accepted following negotiation/compromise/appeal).”<sup>27</sup>

Not only has the U.K. law been effective in increasing the prevalence of flexible work, but employers have found it to have a positive impact on their business. Survey results from 2013 showed an increase in positive views among employers, since 2007, regarding the impact of flexible working on employee commitment, employee relations, reducing absenteeism and turnover, and improving recruitment and productivity.<sup>28</sup> Over half (56%) of employers reported that the impact of flexible working arrangements on their business was very or fairly positive, compared to only nine percent reporting a negative impact.<sup>29</sup>

Other countries, including Australia, have also successfully implemented “right to request laws,” as have jurisdictions in the United States including San Francisco (with the right limited to family caregivers), Vermont, and New Hampshire. President Obama also granted this right to federal employees via Presidential Memorandum in 2014.

**Right to receive temporary schedule changes in an emergency can help workers hold onto employment in a family or personal crisis and has basis in existing law.**

As addressed above, too many New Yorkers have limited control over their work hours, leaving little margin of error in the event of a family emergency or childcare crisis. Offering a bit of wiggle room to these caregivers can help them stay attached to the workforce and earning critical income for their families while weathering inevitable, but

infrequent, exigencies of home. This can also help to keep caregivers off public assistance and allow employers to retain happier, more productive and loyal employees.

The right to receive a temporary change from the work schedule in the event of certain emergencies offers an insurance policy for workers, giving them peace of mind that when unexpected and urgent caregiving, health, and safety needs arise, responding to the call will not cost them their job. The temporary schedule change may mean arriving late to work, leaving work early, or taking up to a full day off of work to attend to the emergency. This is particularly critical for those workers, and situations, that are not covered by the federal Family and Medical Leave Act or the New York City Earned Sick Time Act. In a country without a national childcare system, where the trifecta of safe, affordable, and reliable childcare is a privilege of the few, many families depend on informal childcare arrangements involving friends and family that are inherently precarious.<sup>30</sup> In one study, 30 percent of low-income workers disrupted their work schedules to meet family needs in a single week, and nearly half of all the low-wage parents interviewed in another study had been sanctioned at work because of family care responsibilities.<sup>31</sup> Because time off to care for healthy children is not protected under law, except for leave to bond with a new child, parents have limited legal rights if they need to adjust their work schedule when childcare falls through or school closes unexpectedly.

Other examples of time off for emergencies related to caregiving exist in several contexts. In California, the state law guaranteeing unpaid time off from work for parents to be involved in their child's educational activities was amended in 2015 to include childcare provider or school emergencies.<sup>32</sup> Such emergencies include when a parent is required to pick up a child from school or a childcare provider, when the school or childcare provider is closed or unexpectedly unavailable, where there are behavioral or discipline problems, or in the case of a natural disaster.<sup>33</sup> Under the federal Family and Medical Leave Act, family leave is permitted in the case of certain qualifying exigencies related to military service of a family member, including certain childcare and related activities including arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling in or transferring a child to a new school

or day care facility, or meeting with school or daycare staff.<sup>34</sup> The FMLA military exigencies provisions also cover certain activities related to care of the military member's parent who is incapable of self-care, such as arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility, and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers.<sup>35</sup> Similar protections exist under the New York State Family Leave Act, and will go into effect in 2018.

These statutory examples of time off for emergencies and exigencies reflect an understanding that life happens, and cannot be expected to follow a consistent schedule. New York City has the opportunity to be a pioneer in recognizing this reality and supporting families through life's unexpected, but not unsurprising, ups and downs, while helping workers stay connected to the workforce and keep earning a paycheck.

#### **Intros. 1396, 1387, 1388, 1384 and 1395**

Like Intro 1399, the Fair Work Week bills that apply to fast food and retail workers would give workers more control of their work schedules, addressing practices that make it difficult or impossible for individuals, many of them in low-paying jobs, to manage the demands of work and family.

Intro 1396 would do this by requiring employers to post notice of workers' schedules at least two weeks in advance, and by providing for penalty pay in the event an employer makes last minute changes to, or cancels, the set schedules. Lack of notice is a serious problem for many low wage workers. A recent survey by the Community Service Society found that nearly a third of low wage workers – and half of Latino low wage workers -- receive their work schedules with fewer than 3 days notice.<sup>36</sup> Without sufficient advance notice when they are expected to report to work, it becomes difficult and sometimes impossible, for workers to arrange childcare, transportation, and address other personal and family needs. Additional financial compensation to workers for the burdens that changes in schedule create will alleviate the costs of those last-minute

changes and provide a disincentive to employers to make those changes unless really necessary.

Intro 1387, which bans on-call scheduling for retail workers with less than 72 hours notice, also offers much-needed predictability for workers living paycheck to paycheck. The bill would ban the practice of putting workers on-call at the last minute with no guarantee of being assigned work. This ban will prevent workers from spending on childcare and other family care arrangements to cover work hours that never end up materializing. Not only do workers waste money on unnecessary care coverage in these situations, but without the anticipated work hours, they also lose out on pay to cover those expenses. In addition, schedules that vary dramatically on a monthly, or even weekly basis, can jeopardize workers' eligibility for certain benefits, such as health insurance and child care subsidies, that comprise a substantial segment of their household budget.

Intro 1388 can also help families manage care responsibilities, especially those who rely on tag-teaming. By preventing fast food employers from requiring employees to work two shifts with fewer than 11 hours between the end of the first and the beginning of the second, this bill can help workers who need to be home for a chunk of time to cover childcare while their partner, or other adult household member, is working an alternate shift. According to a work-family conflict report from 2010, tag-teaming is a common strategy, especially for grandmothers who tag-team with their daughters to care for the youngest generation. One-third of the grandmothers who provide care for their grandchildren are employed, and a study found that 40 percent of grandparents had missed work, or come in late or left suddenly because of their caregiving responsibilities.<sup>37</sup>

Finally, we support Intros. 1384 and 1395 because they empower workers to secure the hours and the benefits they need to support their families. Intro 1395 allows workers who want extra hours, so they may earn additional wages and gain eligibility for certain benefits, to have access to that opportunity. And Intro 1384 will allow workers to deduct

funds from their paychecks to support workers' rights non-profit groups that will organize and advocate on their behalf.

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<sup>1</sup> Office of the New York City Comptroller, Scott Stringer, "NYC Economic Brief: The Hardest Working Cities," March 2015, 2, available at [http://comptroller.nyc.gov/wp-content/uploads/documents/Longest\\_Work\\_Weeks\\_March\\_2015.pdf](http://comptroller.nyc.gov/wp-content/uploads/documents/Longest_Work_Weeks_March_2015.pdf).

<sup>2</sup> Dina Bakst, Sherry Leiwant and Janet Gornick, "Promoting Work-Family Balance," Toward a 21<sup>st</sup> Century City for All, available at <http://www.21cforall.org/content/promoting-work-family-balance>.

<sup>3</sup> Gallup Healthways Wellbeing Survey, More Than One in Six American Workers Also Act as Caregivers, July 2011.

<sup>4</sup> Jody Heymann, "Inequalities at Work and at Home: Social Class and Gender Divides in Unfinished Work: Building Equality and Democracy in an Era of Working Families," ed. Jody Heymann and Christopher Beem. New York, NY: The New Press (2005).

<sup>5</sup> County Data Book: Selected Characteristics—New York City, New York State Office for the Aging (2011), available at <http://www.aging.ny.gov/ReportsAndData/CountyDataBooks/30NYCALL5.pdf>.

<sup>6</sup> James T. Bond and Ellen Galinsky, "Workplace Flexibility and Low Wage Employees," Families and Work Institute, 2011, p. 2, available at <http://familiesandwork.org/site/research/reports/WorkFlexAndLowWageEmployees.pdf>.

<sup>7</sup> Kenneth Matos and Ellen Galinsky, "2014 National Study of Employers," Families and Work Institute, 2014, p. 8, 19, available at <http://familiesandwork.org/downloads/2014NationalStudyOfEmployers.pdf>.

<sup>8</sup> Scott Stringer, "Families and Flexibility: Building the 21<sup>st</sup> Century Workplace," September 2015, 3, available at <http://comptroller.nyc.gov/wp-content/uploads/documents/FlexSurveyReport.pdf>.

<sup>9</sup> Ibid.

<sup>10</sup> M. Pitt-Catsoupes, C. Matz-Costa, and E. Bensen, *Age and Generations: Understanding Experiences in the Workplace*. Research Highlight 6 (Chestnut Hill, MA: The Sloan Center on Aging and Work at Boston College, March 2009)

<sup>11</sup> Dina Bakst, Sherry Leiwant, and Janet Gornick, "Promoting Work-Family Balance," Toward a 21<sup>st</sup> Century for All, p. 15, available at [http://www.21cforall.org/sites/default/files/pdf/21cforall\\_workfamily.pdf](http://www.21cforall.org/sites/default/files/pdf/21cforall_workfamily.pdf) (citing Heather Boushey, Shaw Femstad, Rachel Gragg, and Margy Waller. "Understanding Low-Wage Work in The United States." Center for Economic and Policy Research, 2007; Jodi Heymann, *THE WIDENING GAP: WHY AMERICA'S WORKING FAMILIES ARE IN JEOPARDY – AND WHAT CAN BE DONE ABOUT IT*, 2000, p. 103).

<sup>12</sup> Ibid. (citing Heymann, *The Widening Gap*, p. 102; The Urban Institute, "Fact Sheet: Low-Income Working Families: Facts and Figures," 2005).

<sup>13</sup> Comptroller Scott M. Stringer, "Families and Flexibility: Reshaping the Workplace for the 21<sup>st</sup> Century," 6, available at [http://comptroller.nyc.gov/wp-content/uploads/documents/Families\\_and\\_Flexibility.pdf](http://comptroller.nyc.gov/wp-content/uploads/documents/Families_and_Flexibility.pdf).

<sup>14</sup> Bakst, Leiwant, and Gornick at 21.

<sup>15</sup> *Listening to Workers: Child Care Challenges in Low-Wage Jobs*, National Women's Law Center, pg. 7, June 2014.

<sup>16</sup> Bakst, Leiwant, and Gornick at 21 (citing Amy Richman, Arlene Johnson, and Lisa Buxbaum. "Workplace Flexibility for Low Wage Workers." *Corporate Voices for Working Families*, 2006, p. 15).

<sup>17</sup> *A Better Balance: The Work and Family Legal Center. Fact Sheet: Public Health Case for Flexibility*. November 2010.

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<sup>18</sup> Flatley, Jean McGuire, and Kaitlyn Kenney. "Promoting Children's Well-Being: The Role of Workplace Flexibility, Workplace Flexibility 2010." Retrieved [workplaceflexibility2010.org/images/uploads/FF\\_Color\\_CD\\_Facts\(1\).pdf](http://workplaceflexibility2010.org/images/uploads/FF_Color_CD_Facts(1).pdf).

<sup>19</sup> Bakst, Leiwant, and Gornick at 14.

<sup>20</sup> Galinsky, Ellen, James T. Bonk, and E. Jeffrey Hill. "When Work Works: A Status Report on Workplace Flexibility: Who has it? Who wants it? What difference does it make?" Families and Work Institute, 2004.

<sup>21</sup> Joan Williams and Heather Boushey. "The Three Faces of Work-Family Conflict: The Poor, the Professionals, and the Missing Middle," Center for American Progress and Center for Worklife Law, 2010, 54, available at <http://www.americanprogress.org/issues/labor/report/2010/01/25/7194/the-three-faces-of-work-family-conflict/>.

<sup>22</sup> Stringer, "Families and Flexibility," Sept. 2015, 3.

<sup>23</sup> *Ibid.*

<sup>24</sup> Dina Bakst, Jared Make, and Nancy Rankin, "Beyond the Breadwinner: Professional Dads Speak Out on Work and Family," A Better Balance, June 2011, 15, available at <http://www.abetterbalance.org/resources/report-beyond-the-breadwinner-2011/>.

<sup>25</sup> *Ibid.* at 9.

<sup>26</sup> Department for Business and Innovation & Skills, "The Fourth Work-Life Balance Employer Survey (2013)," BIS Research Paper No. 184, December 2014, 44, available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398557/bis-14-1027-fourth-work-life-balance-employer-survey-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398557/bis-14-1027-fourth-work-life-balance-employer-survey-2013.pdf).

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.* at 11.

<sup>29</sup> *Ibid.* at 102.

<sup>30</sup> Joan Williams and Heather Boushey, "The Three Faces of Work-Family Conflict: The Poor, The Professionals, and the Missing Middle," Center for American Progress and Center for WorkLife Law, January 2010, 18, available at <https://cdn.americanprogress.org/wp-content/uploads/issues/2010/01/pdf/threefaces.pdf>

<sup>31</sup> *Ibid.*

<sup>32</sup> Cal. Lab. Code § 230.8 (2016)

<sup>33</sup> *Ibid.*

<sup>34</sup> 29 CFR § 825.126(b)(3).

<sup>35</sup> 29 CFR § 825.126(b)(8).

<sup>36</sup> Harold Stolper, "Unpredictable: How Unpredictable Schedules Keep Low Income New Yorkers From Getting Ahead," (Community Service Society, 2016), available at [http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling\\_12\\_19\\_16\\_Final\\_Web.pdf](http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling_12_19_16_Final_Web.pdf)

<sup>37</sup> Williams and Boushey at 18.

**Schedule Instability and Unpredictability and Worker and Family Health and Wellbeing**

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Testimony to the New York City Council  
Committee on Civil Service and Labor  
Chairperson Council Member I. Daneek Miller

Friday, March 3<sup>rd</sup>, 2017

## **Background**

Between 1950 and 1980, the expanding American economy delivered substantial and sustained gains in income to families across the income distribution. A rising tide lifted “all boats.” But, since 1979, only the most affluent families have seen their incomes and wages rise. For the past thirty years, the bottom fifty percent of families by income have seen their incomes remain stagnant. This is the story of rising income inequality.

The American labor market is also increasingly unequal, characterized by extraordinary returns to work at the top of the market but rising precarity and instability at the bottom of the market. This precarity is multi-dimensional, characterized by low-wages, few benefits, short tenure, contingent employment, and non-standard schedules.

While the consequences of these dimensions of precarity have been studied, scholars, policy makers, workers, and advocates have documented a new set of precarious employment practices related to work scheduling that may have serious negative effects on workers and their families.

Many service-sector employers now use a combination of human resource management strategies to closely align staffing with demand. Under this system, employees receive their weekly work schedules as little as a few days in advance, their scheduled work hours and work days may change substantially week-to-week, and employees may have their shifts changed, cancelled, or added at the last minute (Golden, 2001; Appelbaum et al., 2003; Clawson and Gerstel, 2015). Recent estimates suggest that nearly 90% of hourly retail employees experience such instability (Lambert et al., 2014).

Schedule unpredictability and instability are intimately tied to work hour insufficiency. Employees are often scheduled for a small number of hours that are insufficient for an economic living. Employers then offer workers additional shifts, but at the last minute. The only way for employees to get sufficient hours is then to accept these last minute shifts or requests to stay late. Insufficient hours go hand in hand with unstable and unpredictable schedules.

## **Limits of Existing Data and Evidence**

Our conversations with men and women employed in the retail and food service sectors, press accounts, and the testimony of workers make a compelling case that these scheduling practices have negative effects on workers. But, to date, we have lacked the large scale survey data to further examine these effects.

## **Methods**

To fill this gap, we use an innovative survey method to collect data from 17,000 hourly non-managerial retail and food service employees in the United States. Our study, the Retail Work and Family Life Study (RWAFLS), is unique in collecting detailed measures on schedule instability and unpredictability as well as measures of worker and family health, social wellbeing, and household financial security for a national sample of retail workers. To date, we have collected detailed surveys from hourly non-managerial employees at twenty-eight large employers, including eight large national fast food employers.

We report on the prevalence of unstable and unpredictable scheduling practices in this sample, respondent’s preferences for more hours and more regular hours, and then detail the relationships between unstable and unpredictable scheduling practices and outcomes in three key areas: (1) household economic security, (2) worker health and wellbeing, and (3) parenting. We report results

that pool together employees of fast food and retail establishments. However, we also disaggregate and note when the patterns differ for fast food versus other employees.

### **Descriptive Results**

Schedule variability and short-notice are common. The plurality of employees, 41%, report having variable schedules with another 17% reporting a rotating shift. A smaller share, 23% has a regular day-time schedule, while another 8% has a regular evening schedule and 9% have a regular night shift. Over all then, just one-quarter of employees work a regular standard time shift, another 17% work a regular non-standard shift, and nearly 60% work some kind of variable schedule.

Respondents also receive little advance notice of their weekly schedules. One third of employees receive less than one week of notice and another third receive 1-2 weeks.

When we compare fast food employees to retail employees, we see some notable differences in these two dimensions of work schedules. While fast food employees are less likely than other retail employees to report a variable schedule (28% versus 45%), those in fast food have much less advance notice of their work schedules. **Specifically, 90% of fast food employees have less than two weeks of advance notice of their work schedules and 71% have less than one week notice.**

These scheduling experiences are linked in so far as many employees with variable schedules also receive little advance notice. Among employees with a variable schedule, 68% report less than two weeks advance notice of that schedule. **Among fast food employees, that share rises to 89%.**

A significant share of employees also report regularly or sometimes working on-call shifts (30%) or having a work shift cancelled at the last minute (15%). **On-call shifts were somewhat more common among fast food employees, with 38% reporting working such shifts regularly or sometimes.** Approximately half of the employees in our sample reported working “Clopening” shifts, though this share was slightly lower, at about a third, among fast food workers.

It is important to distinguish flexibility from instability. Many white collar and professional workers are able to obtain a desirable “flexibility” in their schedules in which they themselves have some control over when and how much they work. Schedule instability is just the opposite. Employees have very little control over their hours and the variability they experience is not their preference, but rather the result of unilateral employer choices. This is evident when we ask employees how their work schedules are decided. Just 6% of respondents report that they are free to decide their schedule or can decide within limits. In contrast, 57% report that the schedule is decided entirely by their employer and another 32% say it is decided by their employer with some of their input.

We see this lack of schedule control in our data most simply when we tabulate employee reports of their preferences. Overall, 67% of respondents report wanting more hours. Perhaps even more dramatically 83% of employees report wanting more regular schedules (90% of those with variable schedules), with common patterns between fast food employees and other retail employees.

Most respondents are not satisfied with the status quo. Most respondents working hourly jobs in retail and fast food want more hours and more regular schedules.

## **Schedule Instability and Unpredictability and Wellbeing**

These scheduling practices matter. Schedules are an important determinant of economic security, health, and parenting outcomes.

We estimate a set of multiple regression models to examine how key measures of unstable and unpredictable scheduling practices are related to our key outcomes. We test the relationship between (1) schedule type, (2) weeks of advance notice, (3) working on-call, and (4) having cancelled shifts on economic security, respondent health and wellbeing, and maternal time with minor children.

We measure household economic security using two measures. The first is a measure of household income volatility that gauges how inconsistent income is on a week-to-week basis. The second is a standard index of household material hardship that includes instances in which respondents had to go hungry, had utilities shut off, or had to defer needed medical treatment due to cost concerns. We measure health and wellbeing using two additional measures. The first is a standard index of psychological distress. The second is a measure of sleep quality. Finally, we measure maternal time with children based on reports of the frequency of time spent on developmental activities such as reading, homework help, and having meals with children.

Our models adjust for a broad set of respondent characteristics including tenure, wages, income, education, usual hours, age, and race/ethnicity. We also weight our estimates to the nationally representative American Community Survey. Below, we summarize these results and also present predicted probabilities from the models that allow us to compare how exposure to unstable and unpredictable schedules raises the risk of negative outcomes, adjusting for these other respondent characteristics.

### *Advance Notice*

Proposed scheduling legislation requires two weeks advance notice of work schedules. We show that having this notice has real benefits for workers.

There are strong links between having at least two weeks of advanced notice and worker wellbeing. Compared to having less than one week of advance notice, having at least 2 weeks of advanced notice significantly reduces the likelihood of experiencing income volatility and reduces the likelihood of the respondent experiencing material hardships over the past twelve months. For instance, having at least two weeks of advance notice reduced the share of respondents who said that their household income fluctuated from week to week by approximately 10%. Having more advance notice of one's work schedule may make it easier for respondents to maintain a second job, which could help with income smoothing and reduce volatility.

Employees with less than 2 weeks' notice of work schedules were substantially more distressed and sleep-deprived. Respondents who had at least two weeks of advance notice were 25% more likely to report that their sleep quality was good or very good than those with less than a week of notice.

Advanced notice of work schedules is the dimension of schedule unpredictability is directly regulated in the proposed legislation and our work suggests that increasing notice to at least two weeks would make a tangible difference to workers lives.

### *Working “On-Call”*

We also find that employees who report regularly or sometimes (as opposed to rarely or never) being asked to work on-call far worse on all of our key outcome measures.

Those who work on-call report significantly more household income volatility and significantly more exposure to material hardships. For instance, the share of respondents who report “often” working on call who experience material hardship is 18% greater than the share of respondents who “never” work on-call.

Working on-call is also significantly negatively associated with employee health. Respondents who worked on-call have much higher levels of psychological distress and report much worse sleep quality. Finally, mothers who often worked on-call shifts spent significantly less time with their children than otherwise similar mothers who only rarely or never worked on-call shifts.

### *Cancelled Shifts*

Exposure to last-minute shift cancellation also weighed on the wellbeing of respondents in our survey. Respondents who reported having shifts cancelled at the last minute were significantly more likely to report household income volatility and material hardship.

Shift cancellation also significantly raised the risk of psychological distress and lowered sleep quality. Mothers who reported cancelled shifts also reported spending less time with their minor children – symptomatic of the disorganization of daily life imposed by unstable and unpredictable scheduling practices.

### *Cloping*

We also find that respondents who report staffing “clopenings,” that is working a closing shift followed by an opening shift and so who have little rest in between, are also negatively affected. These respondents report significantly higher household income volatility and more exposure to material hardship.

Working a clopening is also strongly and significantly associated with more psychological distress and lower sleep quality. Finally, mothers who report working clopenings report spending less time with their children.

### *Schedule Variability*

Having a variable schedule significantly increases the risk of experiencing household income volatility and of experiencing household material hardships. We also find consistent negative links between working a variable schedule and sleep quality and psychological distress.

For working parents, the negative effects of unstable schedules spill over onto their children. Working parents who have variable schedules report spending less time with their children in developmental activities and report higher levels of parenting stress. For example, almost half of working parents with regular day time schedules had a meal with their child every day, but only 1/4 of working parents with variable schedules did. We also saw large effects on helping kids with homework.

In related research, we have interviewed 25 working parents in retail and food services. Those with stable schedules were able to maintain stable routines and care arrangements for their children. Those with unstable schedules were sometimes lucky enough to be able to buffer their children from instability, but only if they had a grandparent or other friend or family member who could be available on call to provide child care. In those cases, the burden of schedule instability was passed on to the grandparent rather than to the child.

But, for many working parents with unstable schedules, their children experienced a great deal of instability. Laura [pseudonym], a mother of four, who worked at a large grocery store chain, had to go through a long list of potential caregivers whenever she got her schedule, could one of her older children pick up her 5-year old? An Aunt? An Uncle? Some of her potential caregivers lived 30 minutes away. She had to scramble. For parents like Laura, kids' routines changed day to day and week to week, mirroring the instability of their parent's work schedule.

### **Policy Implications**

These findings from our research show that the vast majority of retail and fast food employees would prefer more hours and more stable work schedules. Our results also show that unstable and unpredictable work schedules are associated with worse outcomes for employees and their families.

Placing these findings in the context of proposed work scheduling legislation, our research supports the claim that requiring employers to provide workers with at least two weeks of advanced notice of their schedules would benefit workers. Advanced notice of at least two weeks seems likely to improve workers' ability to plan their child care, to combine work with schooling or a second job, and in turn may reduce stress and improve mental health. In fact, we find that having at least two weeks of advance notice is associated with workers' reporting better mental health and more economic security.

Proposed "access to hours" legislation would combat involuntary part-time employment by requiring employers to offer existing employees access to full-time schedules before hiring additional part-time workers. Our study finds that the vast majority of workers stated a desire for more work hours, an aspiration that would be advanced by the current access-to-hours proposals. Access to hours may also serve to indirectly reduce schedule variability which we find increases household economic insecurity, harms worker wellbeing, and reduces mothers' time spent with children.

Finally, we find some of the strongest negative associations between working on-call shifts and clopening shifts and our key measures of household, worker, and family wellbeing. Legislation to prohibit these shifts seems likely to improve the wellbeing of employees.



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Testimony of Elianne Farhat

Fair Workweek Initiative | Center for Popular Democracy

Before the Committee on Civil Service and Labor, Council Member Miller (Chair)

On Fair Workweek and Fast Food Empowerment bills

March 3, 2017

New York City, NY

Chair Miller and Members of the Committee:

My name is Elianne Farhat, and I am the Deputy Campaign Director of the Fair Workweek Initiative at the Center for Popular Democracy (CPD). Thank you for the opportunity to present testimony before you today.

Our organization played a central role in the implementation of the San Francisco Retail Workers Bill of Rights and the recently enacted Fair Workweek ordinances in Seattle, WA and Emeryville, CA; as well as the Opportunity to Work ordinance adopted by voters in San Jose, CA. We are currently consulting with policymakers from Connecticut to Oregon on the design of fair workweek policies. CPD's Fair Workweek Initiative staff have deep expertise in the industries where unpredictable and on-call scheduling is most prevalent, and understand both the business models that have generated these practices and the impact on workers and their families.

Today a majority of working people in the United States – 75 million or three in five people – are paid by the hour. And, more than six million Americans want full-time work but can only find part-time jobs – that is *double* the number in 2007, despite signs of an economic recovery.<sup>1</sup> Regardless of the number of hours worked, people working hourly jobs have little to no input in their hours and very few workplace protections:

- Thirty-eight percent of all early-career adults – and almost half of those working part-time – get their schedules one week or less in advance, and
- Half have no say in their work schedule and are at risk of highly variable schedules.<sup>2</sup>

As Professor Susan Lambert's research shows, approximately 90% of early-career food service and retail workers report that their hours varied in the past month, with the range of variation amounting to a half

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<sup>1</sup> "The Employment Situation – December 2015," Bureau of Labor Statistic – US Department of Labor, January 8, 2016, <http://www.bls.gov/news.release/pdf/empsit.pdf>.

<sup>2</sup> *Ibid.*

or more of their usual work hours on average.<sup>3</sup> This fluctuation in work hours, which creates extraordinary income volatility, is due in part to an intentional business strategy of hiring a large, part-time workforce – a strategy that has been shown to impose costs on businesses as well as workers.<sup>4</sup>

We know that hourly workers in New York City – especially those working in fast food and retail – are facing a crisis. A Community Service Society survey of nearly 2,000 New Yorkers last year showed more than 80 percent of restaurant workers received less than two weeks' notice of their schedules and more than 50 percent of all low-income workers receive less than one week - leading many to serious problems managing work and family responsibilities, including paying bills and rent, skipping meals, and affording needed prescriptions.

**These unnecessary practices have a dramatic impact on working families resulting in unstable incomes and uncertainty that makes it difficult to care for family members, attend and study for college classes, work a second job or participate in civic life.**

Whether just scraping by hour-by-hour or hardly getting a good night's sleep, America's work-hours crisis is at a breaking point – and, the truth is, public policy has not kept up with the realities of the today's workweek and has failed to protect working families by ensuring equitable, stable work schedules that provide adequate hours.

In particular, labor standards have not kept up with rapid changes to the fastest growing industries, like retail and food service. New workforce management technologies – those that enable employers to micro-adjust workers' schedules to match the real-time ebb and flow of commerce -- are re-shaping the nature of work in growing sectors that pay low wages. These scheduling practices force the lowest-paid workers to absorb substantial fluctuations in hours and earnings.

With our nation's workplace protections badly out of sync with the needs of today's working families, we need policies that provide everyone an opportunity to get ahead. Without an update to labor standards, more and more people across the economy will be subject to extreme economic uncertainty due to fluctuating hours of work.

New policies, like those recently adopted in Seattle, WA and San Francisco, San Jose and Emeryville, CA and currently being considered here in New York, that ensure adequate advance notice with predictability pay, employee input into schedules, and access to full-time work are necessary to improve the lives of working people. The Fair Workweek bills would address the work-hours crisis facing New York City's working families by requiring:

*Advance notice of work hours.* Bill 1396 would guarantee people working in fast food received at least two weeks' notice of their work schedules. Advance notice allows employees time to plan for child and elder

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<sup>3</sup> Susan J. Lambert, Peter J. Fugiel, and Julia R. Henly, Precarious Work Schedules among Early Career Employees in the US: A National snapshot, Employment Instability, Family Well-Being, and Social Policy Network (University of Chicago), August 24, 2014, p. 17.

<sup>4</sup> Kesavan, S., B. R. Staats, W. Gilland. 2014. Volume Flexibility in Services: The Costs and Benefits of Flexible Labor Resources. *Management Science* 60(8): 1884-1906.

care, transportation, second jobs, school and other obligations. This is an easy and common sense practice that many employers already follow, facilitated by readily available software that predicts schedules based on past business trends.

*Access to more hours of work.* Bill 1395 would ensure that when new hours of work become available at a fast food establishment, currently employees have the first opportunity to pick those hours up before additional staff are hired. This simple policy promotes full-time work for those who want it and means working people can make sure their paychecks cover the bills.

*Healthier work hours with adequate rest.* Bill 1388 addresses the unnecessary scheduling practice of “clopens” – closing late at night and opening early the next morning – by guaranteeing fast food workers at least 11 hours between such shifts or providing additional compensation if they choose to go above and beyond for their employer by working them.

*An end to abusive on-call scheduling.* Bill 1387 ensure people working in retail have more stability in their work hours by preventing last-minute changes and the chronic underscheduling that leaves too many retail workers with inadequate income. The targeted approach of regulating schedule within 72 hours before the start of a scheduled shift, and setting a minimum of 20 hours in a two-week period, will address the most urgent challenges facing New York City’s retail workers.

*Right to request scheduling accommodations.* Bill 1399 would allow all working people to request scheduling accommodations or limits on their availability to allow them to meet obligations outside of work. Employers are not required to grant those requests, but cannot retaliate against workers for simply asking.

Fair workweek policies, and similar minimum wage requirements and paid sick days, are meaningfully strengthened when working people have greater voice in their workplaces and communities. The Fast Food Empowerment bill will support fast food workers who want to come together with their families and communities to ensure recent gains are monitored and enforced.

A tailored fair workweek policy that provides working people in retail and food service industries adequate advance notice with predictability pay, promotes full-time work and incentivizes healthy work hours is an opportunity for New York City to take a targeted and meaningful step forward to ensuring working people have a living wage and hours they can count on to care for themselves and their families.

To: Committee on Civil Service and Labor, Council Member Miller (Chair)  
From: Susan Lambert and Julia Henly, Associate Professors, University of Chicago  
Re: Fair Workweek Laws  
Date: March 3, 2017

As academic researchers, we write to share our knowledge on the fair workweek laws under consideration by the New York City Council. We have studied the employer- and employee-sides of scheduling practices in hourly jobs since the early 2000s. Our research draws on a range of rigorous methods, from analyses of nationally representative survey data and in-depth case studies of employer practices, to randomized experiments of innovations in scheduling practices conducted in partnership with national retailers. Although research supports the need for and feasibility of implementing all of the fair workweek laws being considered, **we focus on two of the laws for which our data are most relevant: Int. 1397-On-Call Scheduling and Int. 1396-Advance Scheduling and Schedule Change Premium.**

### Overview

Unpredictable and unstable employment, income, and work hours are pervasive problems in today's labor market, especially for workers paid by the hour and those in low-wage jobs.<sup>i</sup> Employer practices such as posting work schedules with short notice, frequently changing work schedules without notice or pay, and maintaining a large pool of part-time staff on payroll all contribute to unpredictable schedules and fluctuating work hours.<sup>ii</sup> Research indicates that these practices make it difficult for workers to know when and how much they will work, increase employee stress, and may jeopardize their ability to provide essential caregiving to children, elderly, or disabled family members, regularly attend educational activities to improve their human capital, or fulfill the employment responsibilities of a second job.<sup>iii</sup> When hours are unpredictable from week to week, so is take-home pay, thereby compromising employees' ability to responsibly plan for budgeting and saving and heightening the likelihood of experiencing underemployment.<sup>iv</sup>

Work hour standards around hiring and scheduling can mitigate these problems by providing employees with greater advance notice and opportunities for additional work hours. In this brief memo, we summarize empirical work to document the prevalence of problematic scheduling practices in fast food and retail jobs as well as evidence suggesting that it is feasible for employers to improve scheduling practices.

### Int. 1397 – Prohibiting On-Call Shifts (retail)

#### *Eliminating on-call shifts is feasible and employees greatly appreciate it.*

The Gap Inc. eliminated the use of on-call shifts throughout North America in October 2015. Gap employees were asked about this change as part of a survey conducted to evaluate an intervention improve scheduling practices in hourly retail jobs, developed in partnership with Gap (Joan Williams, Susan Lambert, and Saravanan Kesavan, Principal Investigators).<sup>v</sup> The respondents include employees who worked for Gap both before and after it eliminated on-call shifts. Fully 93% of hourly Gap workers surveyed agreed (59% strongly agreed; 34% agreed) with the statement that "Overall, eliminating formal on-call shifts has been good for me." More

specifically, 95% agreed (60% strongly agree; 35% agree) that “the elimination of formal on-call shifts has improved my ability to balance my work and personal responsibilities.” As researchers, we can attest that such a positive response to organizational change is rare.

Several other firms (Sears, J.C. Penney, TJ Maxx, Williams-Sonoma, and Target) have joined Gap in eliminating on-call shifts.<sup>vi</sup> These voluntary employer actions demonstrate the feasibility of meeting business demands without the use of on-call shifts.

### **Int. 1396-Advance Scheduling and Schedule Change Premium (fast food)**

#### ***National data on advance notice.***

When hours vary from week to week, how far in advance employees are informed of their schedule becomes essential to their sense of predictability, to being able to anticipate when they will work and when they won't, when they'll need child care and when they won't. New national data on the prevalence of problematic scheduling practices among a national sample of early career adults (age 28-34) indicate that food service (and retail) workers<sup>1</sup> are among the workers at highest risk of working unpredictable, fluctuating hours over which they have little control<sup>vii</sup> Over 52% of food service workers (58% of retail workers) in this national sample reported fluctuating weekly work hours that varied, on average, by over 8 hours a week, which is more than a full day of pay. And for the overwhelming majority of these workers, the timing of when they work is determined by their employer, not them. Only 16% of food service workers (and 9.5% of retail workers) report that they control when they start and end work, either on their own or within employer guidelines. **Central to New York's initiatives, 54.5% of food service workers (and 35% of retail workers) receive a week or less advance notice of their work schedule. If employer practices in NYC are similar to those nationally, 14-day advance notice holds the potential to improve schedule predictability for thousands of area fast food workers.**

#### ***Employees strongly appreciate 14-day advance notice.***

When Gap eliminated on-call shifts, it also began posting schedules with two weeks advance notice. Employees were asked what they thought of this change. Fully 90% of part-time employees agreed (54% strongly agree; 36% agree) that “Overall, publishing schedules further in advance has been good for me,” and 87% agreed (43% strongly agree; 44% agree) with the statement that “Since Gap has moved to publishing schedules two weeks in advance, it has become easier to plan around my work schedule.” If fast food workers are similar to retail workers, 14-day advance notice should improve their ability to plan their lives.

#### ***The rationale for a schedule change premium.***

We think it essential that posting in advance be accompanied by an incentive to employers to limit changes to the schedule. Otherwise, so many changes are likely to be made that posting further advance will do little to deliver greater predictability to employees, as intended by this law. Providing a schedule change premium is a practice that would

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<sup>1</sup> It is not possible to limit these analyses to fast-food and retail workers in brick-and-mortar stores because the occupational codes in the NLSY are not specific enough. These data thus include workers in what can be considered higher, better compensated jobs than frontline sales associate and fast food positions.

promote cost sharing between employers and employees (instead of fully cost shifting to employees). It incentivizes employers to utilize forecasting tools and other information to optimize schedule adjustments, allowing more accurate initial schedules and limiting subsequent schedule changes, which makes good business sense.

A schedule change premium recognizes that some last minute changes to work schedules are driven by unpredictable business necessity. However, it also acknowledges that schedule changes create costs for workers by disrupting childcare arrangements, school and training schedules, and transportation arrangements. The establishment of a schedule change premium ensures that the monetary cost of schedule adjustments is shared between business and employees. Just as an overtime premium compensates hourly employees for working beyond what is conventionally viewed as a reasonable workweek, a schedule change premium compensates employees for the sacrifices they make when accommodating employer requests for flexibility.

***Evidence of feasibility: Managers' experience posting further in advance.***

We have not conducted studies of fast food restaurants and do not claim that posting schedules two weeks in advance will be easy; no organizational change is. What we know from our experiments in retail settings that have incorporated increased advance notice is that there is a learning curve for both frontline managers and employees. Both have to become more planful, managers in terms of thinking through business requirements and employees in terms of submitting requests for time off further in advance, such as for doctor appointments and parent-teacher conferences.

In the Work Scheduling Study, an experiment we conducted in a national retail firm (firm name confidential), stores were randomly assigned to either post weekly schedules for a full month at a time or to post one schedule a few days before the workweek, as consistent with firm policy. Managers in intervention stores provided greater schedule notice than those in control stores. On average, stores participating in the intervention posted more than three weeks of schedules at a time (mean = 3.24 weeks) compared to a group of randomly selected control stores that posted schedules less than two weeks (mean = 1.68 weeks) in advance.<sup>viii</sup>

As part of the study, we interviewed store managers about their experience posting further in advance. Over the course of the experiment, sales associates became accustomed to submitting scheduling requests further in advance and store managers to writing multiple weekly schedules. Below are quotes from managers that highlight their experience of moving to posting schedules further in advance:

**Posting in advance got easier over time.**

"I just think the employees need to be made aware that this is what is going to happen and that they need to put requests in in advance. Communication between management and employees is key. My employees did not have an issue getting requests in earlier, and actually liked getting their schedules in advance."

“At first I was a little hesitant but once I got into it, I thought it was a little better actually. It was easier to just have it done. I got used to it as the study went on.”

**Posting in advance made (some) managers’ jobs easier:**

"Everyone likes it so that makes it easy to do."

"I've actually gotten to the point of looking forward to posting the schedules... It used to be a lot of work, but now that I am in a groove, it is a lot easier and my staff is a lot happier. People know that I will be doing the schedules for the next month so they give me their days off ahead of time."

"I enjoyed it; it opened my eyes to making scheduling easier for me. It made me feel better about my time management..."

"I make so little changes now to the schedule than I used to."

"I like to plan ahead, for me it's very effective and my associates and managers like it as well. It's more effective for business and everyone has the opportunity to see what's coming up."

**Some managers reported downsides to posting further in advance:**

"We were doing a disservice to ourselves because I would spend a lot of time making them and would have to change them anyways."

"Because people's lives change and you have to adjust. Personally I think 2 weeks in a row is enough." (As noted above, managers were to post a full month of schedules.)

"[Associates] can see that they'll get very few hours for the whole month."

**The majority of managers concluded there was value for themselves and their employees of providing greater advance notice.**

Only 3 out of 49 managers with whom we conducted follow-up interviews said they would like to return to the old practice of posting one schedule a few days before the workweek.

## Conclusion

The best available evidence indicates that limited advance notice and fluctuating work hours are widespread in the labor market, especially in hourly jobs in restaurants and retail, making it difficult for workers to plan their lives and budgets. There is mounting evidence that it is feasible for employers to deliver more predictable and stable work hours in these jobs, as evidenced by the voluntary behavior of employers who have eliminated on-call shifts and increased advance notice, results from workplace experiments, and data from operations researchers showing that there is more stability and predictability in firms' labor requirements than is reflected in workers' actual schedules.

Below is a graphic representation of how employees' work hours vary dramatically more than labor hours overall. The graph is from one store that participated in the Work Scheduling Study discussed above, and we have many similar ones. Each thin line is a store employee and shows how much the individual employee's hours diverged from his/her average hours over the full year of 2012 (lines that terminate mean the employee left the store). The thicker line graphs how much the store's overall labor hours varied from its mean over the course of the year. As you can see, although there are certainly peaks and valleys in overall store labor hours, individual workers' hours vary much more dramatically.

The set of fair workweek laws being proposed can help deliver the stability and predictability that is currently hidden in New York's fast food and retail businesses to their employees, fostering the wellbeing of workers, families, and employers.



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<sup>i</sup> Kalleberg, A. L. (2011). *Good jobs, bad jobs: The rise of polarized and precarious employment systems in the United States, 1970s to 2000s*. New York: Russell Sage Foundation; Lambert, Susan J. (2008). Passing the buck: Labor flexibility practices that transfer risk onto hourly workers. *Human Relations* 61(9):1203-27.

<sup>ii</sup> Lambert, S.J., Haley-Lock, A., & Henly, J.R. (2012). Schedule flexibility in hourly jobs: unanticipated consequences and promising directions. *Community, Work & Family*, 15(3), 293-315 .

<sup>iii</sup> Henly, J. R., & Lambert, S. (2014). Unpredictable work timing in retail jobs: Implications for employee work-life outcomes. *Industrial and Labor Relations Review*, 67(3), 986–1016; McCrate, E. (2016). Unstable scheduling, precarious employment, and gender. A working paper of the EINet Measurement Group. University of Chicago.

<sup>iv</sup> Shin (2012) Survey of Household Economic Dynamics, 2015.

<sup>v</sup> Contact Susan Lambert, [slambert@uchicago.edu](mailto:slambert@uchicago.edu), for more information on these results.

<sup>vi</sup> Ben-Achour, S. (2015). Will last-minute work soon be history. *Marketplace*.  
<http://www.marketplace.org/2015/08/07/business/will-last-minute-work-soon-be-history>

<sup>vii</sup> Authors' analyses of NLSY-Round 16 (2013) data, with assistance from Josh Choper. Comparable to rates in NLSY- Round 15 data (2011). Lambert, S.J., Fugiel, P.J. & Henly, J.R. (2014). *Schedule Unpredictability among Early Career Adults in the US Labor Market: A National Snapshot*. Research brief issued by EINet (Employment Instability, Family Well-being, and Social Policy Network) at the University of Chicago: <http://ssascholars.uchicago.edu/einet> .

<sup>viii</sup> Lambert, S. J., Henly, J.R., Schoeny, M. & Jarpe, M. (under review). Increasing schedule predictability in hourly jobs: Results from a randomized experiment in a US retail firm.



policy solutions that work for low-income people

**Testimony of the Center for Law and Social Policy (CLASP)  
Before the Committee on Civil Service and Labor**

**March 3, 2017**

**Re: Int. 1384, Int. 1396, Int.1395, Int. 1388, Int. 1387, and Int. 1399 (“Fast Food and Fair Workweek Legislation”)**

The Center for Law and Social Policy (CLASP) is a national organization that works to improve the lives of low-income people by developing and advocating for federal, state, and local policies that strengthen families and create pathways to education and work. As a part of our efforts to improve job quality for low-wage workers, CLASP has done extensive research and policy analysis on issues related to fair work schedules.

We strongly support Int. 1384, Int. 1396, Int. 1395, Int. 1388, Int. 1387, and Int. 1399. Research demonstrates that many service workers, particularly low-income workers, in New York City are struggling with the effects of volatile work schedules and inadequate hours. Unstable scheduling creates stress for working families; makes it difficult to pay the bills; and limits workers’ ability to pursue higher education, hold a second job, or perform caregiving obligations. With the passage of this legislation, New York City will join a handful of leading jurisdictions in the country who are improving job quality by stabilizing workers’ schedules.

While a variety of factors perpetuate unfair scheduling, one unifying issue that underpins the problem is lack of worker power and voice.<sup>1</sup> This is why Int. 1384 is a critically important piece of the puzzle, both for fair scheduling and for job quality more broadly. The bill would empower fast food workers to join together with one another in order to increase their chances of being heard on the job and limit the potential for employer retaliation – a major obstacle to worker organizing. Int. 1399, which would apply to all workers regardless of industry, also helps to elevate worker voice by giving workers the right to request flexible work arrangements and protecting them from retaliation. The bill also strengthens NYC’s protections for workers experiencing personal or family emergencies by requiring employers to grant requests if the worker experiences emergencies such as domestic or sexual violence.

Int. 1396 addresses a major source of instability for workers in the fast food industry – lack of advance notice of schedules. Without advance notice, many working families experience severe financial insecurity. A recent study found that nearly 1 in 5 low-income working parents in NYC who experience volatile scheduling (including less than two-weeks notice) reported experiencing hunger as a result of inability to buy sufficient food.<sup>2</sup> In addition, many working parents who lack advance notice struggle to arrange child care and access child care

subsidies.<sup>3</sup> This bill would have a major impact; in NYC, more than 80 percent of restaurant workers currently receive less than 2-weeks notice of their schedules.<sup>4</sup>

Even as the economy has recovered, many workers in NYC and nationwide struggle to find full-time jobs. Nearly 6 million people in the U.S. are working part-time despite wanting to work full-time, and service industry workers are twice as likely to experience this phenomenon.<sup>5</sup> As with other aspects of job scheduling, workers of color are more likely to experience inadequate hours.<sup>6</sup> Int. 1395 is thus an important piece of legislation for all fast food workers, but particularly for those from communities of color. The bill, which would require employers to offer available hours to existing part-time employees prior to hiring new part-timers, is a commonsense approach to addressing involuntary part-time work. Similar legislation has passed in five other jurisdictions and is being considered around the country.<sup>7</sup>

Although many workers cannot get *enough* hours, the hours they do receive are too often scheduled in such a way that workers' do not have time to rest and recuperate between shifts. Int. 1388 would protect workers from being scheduled for shifts that don't allow for sufficient rest or compensate employees who consent to working under such grueling conditions. Just as overtime pay has long been accepted as a fair and humane policy, so too should the proposal in this bill be considered.

Recently, led by New York Attorney General Eric Schneiderman, Attorneys General from nine states and the District of Columbia, launched a probe into on-call scheduling, reflecting their "collective concern" about the impact of the practice on workers and their families. While this probe has led to numerous employers voluntarily curtailing on-call scheduling, it provides no enforcement mechanisms and still allows low-road employers to continue this practice.<sup>8</sup> Int. 1387 would eliminate the abusive practice of on-call scheduling for retail workers in NYC.

These bills are critically important to NYC workers, particularly the many low-income workers who are concentrated in the fast food and retail industries. Together, this package of bills will both improve working conditions and help workers to have a greater voice in the workplace. At the same time, research and employer experiences suggest that these policies would have few, if any negative effects on their businesses; indeed, many employers who adopt fair scheduling practices find that employee loyalty and retention improves.<sup>9</sup>

CLASP commends members of the Council for introducing these important bills and urges the Committee to support them. Thank you for the opportunity to comment.

Sincerely,



Elizabeth Ben-Ishai, Ph.D.  
Senior Policy Analyst

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## Notes

<sup>1</sup> See Liz Ben-Ishai, Center for Law and Social Policy, “Worker power: a critical component of fair scheduling,” Aspen Institute Blog, 2017. <https://www.aspeninstitute.org/blog-posts/worker-power-critical-component-fair-scheduling/>

<sup>2</sup> Harold Stolper, Community Service Society. *Unpredictable: How unpredictable schedules keep low-income New Yorkers from getting ahead*. 2016. [http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling\\_12\\_19\\_16\\_Final\\_Web.pdf](http://lghhttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Scheduling_12_19_16_Final_Web.pdf)

<sup>3</sup> Liz Ben-Ishai, Hannah Matthews, and Jodie Levin-Epstein. Center for Law and Social Policy. *Scrambling for Stability: the challenges of job schedule volatility and child care*. 2014. <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>

<sup>4</sup> Stolper, 2016.

<sup>5</sup> Lonnie Golden. Economic Policy Institute. *Still falling short on hours and pay*. 2016. <http://www.epi.org/files/pdf/114028.pdf>

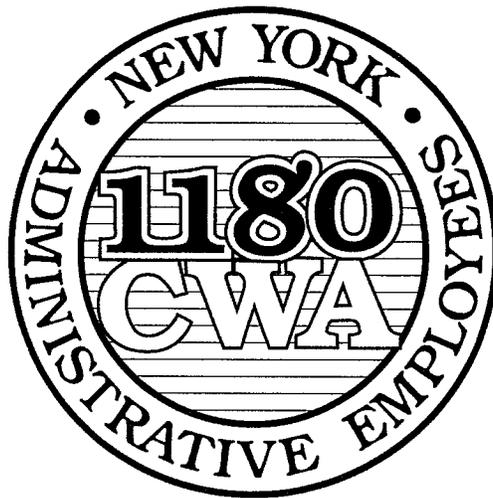
<sup>6</sup> Ibid.

<sup>7</sup> Such laws have passed in Seattle and Tacoma, WA and San Jose, Emeryville, and San Francisco, CA. See proposed legislation and enacted laws sections at <http://www.clasp.org/issues/work-life-and-job-quality/scheduling-resources>

<sup>8</sup> Bourree Lam. “The end of on-call scheduling?” *The Atlantic*. 2015. <https://www.theatlantic.com/business/archive/2015/10/on-call-scheduling-labor/412132/>

<sup>9</sup> Liz Ben-Ishai. Center for Law and Social Policy. *Job Schedules that Work for Businesses* 2014. <http://www.clasp.org/resources-and-publications/publication-1/Job-Schedules-that-Work-for-Businesses.pdf>

**Testimony of  
Arthur Cheliotas, President  
New York Administrative Employees  
Local 1180,  
Communications Workers of America, AFLCIO**



**To the New York City Council  
Committee on Civil Service and Labor  
Regarding  
“Fast Food Worker Empowerment  
And a Fair Work Week”**

**March 3, 2017**

Good Morning Chairperson Miller and Committee Members. My name is Arthur Cheliotas and I am the President of CWA Local 1180. I am thankful for the opportunity to testify here today on behalf of our membership in support of this package of bills for the fair scheduling of our Fast Food Workers.

CWA Local 1180 represents over 8,900 hardworking administrative workers in New York City government and the non-profit sector.

This union has continued New York City's proud history of being at the forefront labor rights – leading the way on the Fight-for-\$15. We are here before you today to support Fast Food Workers Empowerment and a Fair Work Week.

The bills before the committee uphold this basic human right and address fundamental needs that all workers share; the ability to plan their lives based on a fair expectation of work; the need to balance work with family life and other commitments; it is essential that a fair work schedule allow them to honor these commitments.

The struggle of these workers struggle is not new, the fight for the eight hour day dates back to the 1880's. The slogan back then was Eight Hours Work, Eight Hours Rest, And Eight Hours of What We Will.

There is a monument in Chicago's old Haymarket produce district commemorating the Haymarket Riot of May 4, 1886, a tragedy that had international significance. Workers gathered in support of a strike demanding an 8 hour day when a bomb exploded killing 7 police officers and 4 bystanders.

In the aftermath, those who organized and spoke at the meeting were arrested, unfairly tried and, in some cases, sentenced to death even though none could be tied to the bombing itself.

The fight for the eight-hour workday, for justice, and the right of every human being to pursue an equitable and prosperous life continues today.

History may not repeat itself but it sure does rhyme and each of the four bills – Intro 1396, 1395, 1388 and 1384 will make a real difference in the lives of workers as they struggle for a just, equitable and prosperous life.

Two weeks advance notice of scheduling will allow workers to plan their lives based on a fair expectation of when they will be working. And when late changes are made to shifts, it is only fair that businesses pay to offset the cost that workers may incur when they juggle their lives.

The proposed bar on employers scheduling the same worker to close a store late at night before opening the next morning, without an adequate break, is simply commonsense. Workers need rest to ensure they are not exhausted on the job and a risk to themselves and their colleagues.

Lastly, enabling fast food workers to make voluntary deductions to a non-profit organization will build the foundation of a strong independent voice. Through this organization workers can inform other about their rights on the job, help to enforce the law when it is breached and advocate for causes that support workers and their communities.

These bills build on the work this New York City Council has already done to make the city a place where all people can live and thrive. On behalf of our membership we strongly encourage you to support the passage of these bills and continue our City's legacy of leadership on worker's rights.

# N · Y · S · A

NEW YORK STAFFING ASSOCIATION

c/o Bolton-St. Johns  
7 World Trade Center  
250 Greenwich Street, Suite 4641  
New York, NY 10007

March 3, 2017

New York City Council  
Committee on Civil Service and Labor  
City Hall  
New York, New York 10007

Re: Int 1387-2016, Prohibiting on-call scheduling for retail employers; Int 1399-2016, Establishing a right for employees to seek flexible work arrangements

Members of the Committee on Civil Service and Labor:

The following comments are submitted on behalf of the New York Staffing Association (NYSA) regarding the above-referenced proposed legislation. NYSA represents New York's staffing firms. These firms placed over 525,000 workers on temporary and contract assignments in 2015, many of whom were placed on assignment in New York City—generating an estimated \$1.6 billion in economic impact. Turnover is very high in the industry (in 2015 it was 383%) reflecting the fact that most individuals work as temporaries for a limited amount of time, to gain specific job experience, supplement their income, or until they are hired into a so-called “permanent” position. The industry was created to provide schedule flexibility, both to the individuals it employs and to the clients who utilize their services. Int 1399-2016 and Int 1387-2016 would stifle the very flexibility the industry was established to provide, with the likely impact of losing hundreds of thousands of employment opportunities for NYC workers.

Int 1399-2016 would require all workers to be provided with written work schedules upon hire. Int 1387-2016 would require that retail workers be provided with advanced notice of their work schedules or cancelation of same, as well as minimum work hours. Both bills were drafted with traditional retail and other workforces in mind—not temporary workers who sign on with temporary staffing firms specifically to find short tenure, flexible, on-demand work.

Unlike traditional workers, temporary workers and the staffing clients they serve *seek the very workplace flexibility that is the hallmark of temporary work and which this legislation could unintentionally stifle. Moreover, for the reasons explained below, there is no feasible way for staffing firms to comply with the requirements of the legislation.* Because the bills could significantly disrupt New York City's staffing industry and kill thousands of jobs, we respectfully request that the legislation explicitly exempt staffing firm temporary workers.

### *Staffing Firms Could Not Practically Comply with the Legislation's Requirements*

Individuals seeking temporary work generally visit the staffing firms' offices only once—when they apply to be included in the staffing firm's roster of candidates. After successfully completing an employment application, they are hired, complete the federal Form I-9, and are included in a staffing firm's database of available workers. But in the vast majority of cases, they are not actually placed on an assignment with a client until a later date. *Therefore, it would be impossible for staffing firms to comply with Int 1399-2016 and furnish written notice of work schedules at the time of hire, because assignment details such as location, times, and number of hours, simply are not known.*

Nor could staffing firms comply with Int 1387-2016 which, if interpreted broadly to apply to temporary workers assigned to retail establishments, would require staffing firms to provide 72 hours' advanced notice of work schedules or cancelation of same, as well as a minimum of 20 hours of work during any 14-day period.

Staffing clients regularly schedule or change temporary assignments or work hours on short notice due to the exigent

nature of temporary work—for example, members of a client’s permanent staff may become sick or unexpectedly return from absences, or demand for the client’s services may suddenly wax or wane, thus requiring scheduling or cancellation of a temporary worker’s assignment on short notice. In such cases, it is common for clients to *request temporary workers for the same or next day*, and to *alter or end their assignments just as quickly*. Accordingly, staffing firms could not provide advanced notice of work schedules or cancellations; nor could they guarantee minimum hours of work. And requiring such notice would virtually eliminate the last-minute employment opportunities temporary workers depend upon to supplement their income.

The proposed legislation thus would stifle workforce flexibility, causing many clients to forego using temporary workers altogether and resulting in the loss of jobs for hundreds of thousands of workers. Accordingly, staffing firm temporary workers should be explicitly excluded from the legislation.

*The Legislation Can Be Easily Amended to Explicitly Exclude Staffing Firm Temporary Workers*

To exclude staffing firm temporary workers, Int 1387-2016 and Int 1399-2016 each should be amended as follows:

The provisions of this subchapter do not apply to any employee temporarily assigned by a temporary help firm. A “temporary help firm” means an organization that recruits and hires its own employees and assigns those employees to perform work or services for another organization to: (i) support or supplement the other organization’s workforce; (ii) provide assistance in special work situations including, but not limited to, employee absences, skill shortages or seasonal workloads; or (iii) perform special assignments or projects.<sup>1</sup>

Thank you for your consideration.

Very truly yours,

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<sup>1</sup> The definition of “temporary help firm” is set forth in regulations promulgated pursuant to New York City’s Earned Sick Time Act; see section 7-01, Chapter 7 of Title 6 of the Rules of the City of New York.

FOR THE RECORD

March 3, 2016

TESTIMONY OF LAWRENCE A. MANDELKER for  
THE NEW YORK METROPOLITAN RETAIL ASSOCIATION (NYMRA)  
COMMITTEE ON CIVIL SERVICE AND LABOR CONTRACTS

Chair: Hon. I. Daneek Miller

a. NYC COUNCIL INTRO 1387 (2016)

Chairperson Miller and members of the Committee: I represent NYMRA, the New York Metropolitan Retail Association. Thank you for providing us with an opportunity to discuss these bills with you. NYMRA is an organization of national chain retailers with stores in the City of New York. None of NYMRA's members provide for on-call scheduling of retail employees. If all that Intro 1387 did were to prohibit the practice, NYMRA would have no objection to the bill.

Unfortunately, in an attempt to close a loophole that doesn't exist, the bill would add a subdivision 5 to Admin Code §20-1261 prohibiting a retailer from providing a retail employee with fewer than 20 hours of work during any fourteen-day period. That provision is unfair to NYMRA's employees and unduly burdensome to NYMRA's members.

Burden on Retail Employees

Many of those employed by NYMRA's members are students, struggling artists young writers/ performing artists or parents. They are looking for employment that pays a decent wage and provides them with enough flexibility to attend classes, rehearse, audition, write or discharge their responsibilities as parents. Adoption of the current version of the bill would limit an employee's flexibility to pursue his or her studies, performing arts career or tend to child rearing responsibilities.

Accordingly, and for that sole reason, NYMRA opposes adoption of the bill unless this provision is removed. Absent such removal, this provision would adversely impact the ability to hire new employees—including part-time and full-time employees. As written, this provision would greatly restrict a retailer's ability to hire employees who are looking for part time employment that does not interfere with their ability to pursue other interests or commitments, be they as students, struggling artists, performers or caregivers.

Many of those employed by NYMRA's members are students, struggling artists young writers/ performing artists or parents. They are looking for employment that pays a decent wage and provides them with enough flexibility to attend classes, rehearse, audition, write or discharge their responsibilities as parents. Adoption of the current version of the bill would limit an employee's flexibility to pursue his or her studies, performing arts career or tend to child rearing responsibilities.

## Burden on NYMRA's Members

Over the past several years the Council has passed a number of bills that provide paid leave for employees to deal with health and care giving issues for themselves and members of their families – defined in broad terms. Paid leave can be taken in increments of as little as four hours. As drafted, this bill would effectively add to a retailer's cost of paid sick leave by requiring that any "replacement" workers be scheduled for at least 20 hours of work over a 14-day period. It is already difficult for retailers in brick and mortar stores to compete with their online competitors. We should not add to that difficulty

### **Intro1388,1395, 1396 and 1399**

a. The *Definition of "Fast Food Establishment" is so broad that it encompasses in-store lunch counters and coffee shops provided by retailers and staffed by retail employees as an amenity for their retail customers*

b. Intros 1388, 1395, 1396 and 1399 all apply to, but fail to define either 'fast food employees,' or "fast food employers." Essentially, these bills *sub silentio* rely on the definitions of those terms in Intros 1384 and 1396. i.e., a "fast food employee" is an employee working at a "fast food establishment." Likewise, a "fast food employer" is any employer who employs a 'fast food employee' at a "fast food establishment." Regardless of whether intended, this definition is broad enough to include in-store lunch counters in a retail store, and consequently the issues described below. All of these issues would be avoided by amending the definition of "fast food establishment" as follows: "number of NYMRA's members have lunch or coffee counters on premises as an amenity for their retail customers. They are either staffed by their retail employees, or by the employees of a third party to whom the coffee shop space is leased. The by amending the definition of "working conditions and benefits of the leasee's employees are influenced by, and reasonably related to the working conditions and benefits of the retail employees throughout the store. In that, they differ from the fast food employees of independent fast food chains, who often have no benefits that these bills seek to retail employees in the same store are employed, including their work schedules. They differ from independent fast food chains or franchises in that they are staffed by employees who receive benefits influenced by, and reasonably related to consistent with benefits received by other retail employee. f employment – and receive the same employee benefits as as the retailer's other employees. NYMRA's members food want to avoid having to comply with differing mandated working conditions for the workers in their in-store lunch counters in their various stores throughout the City store

b. Intro 1388: The bill would would ban such consecutive shifts even if they were requested by the employee. The bill should be amended to allow a 'fast food employee' access to the opportunity to earn extra money by requesting in writing that the employee be scheduled to work consecutive shifts involving both the closing and opening of a fast food establishment.

c. c.Intro 1395: This bill would require fast food employers to offer work shifts to current fast food employees before hiring additional employees. Intro 1395 1395 would adversely impact the retailer's ability to hire new part-time and full-time employees. As drafted, Intro 1395 restricts a retailer's ability to hire at-risk youth or "opportunity youth"—the segment of 18-26 year olds not enrolled in school or employed today.

d.

c. Intro 1396 would grant employees the right to receive flexible work arrangements in certain emergency situations. There is no provision permitting the employer to decline to offer such "flexible work arrangements if offering such arrangements would adversely affect the conduct of the retailer's business

We believe that all of these difficulties are addressed by amending the definition of "Fast Food Establishment"<sup>1</sup> to mean "any establishment in the State of New York (a) which is independently owned from the establishment in which it is located."[underlined material is new]

NYMRA looks forward to meeting with members of the Committee and other interested Councilmembers to discuss the issues raised this morning

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<sup>1</sup> The full text of amendment is set forth on Appendix "A hereto



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March 3, 2017

**Written testimony respectfully submitted to the New York City Council Committee on Civil Service and Labor by Varun Sanyal, Director of Economic Development Policy of the Brooklyn Chamber of Commerce, regarding the Fair Work Week.**

Good Morning:

I'm Varun Sanyal and I serve as Director of Economic Development Policy at the Brooklyn Chamber of Commerce (BCC) and I am delivering testimony on behalf of Andrew Hoan, President and CEO of the Brooklyn Chamber of Commerce.

The Brooklyn Chamber of Commerce is a membership-based business assistance organization that represents the interests of over 2,100 member businesses across the borough of Brooklyn. The Brooklyn Alliance is the not-for-profit economic development organization of the Chamber. It works to address the needs of businesses through direct business assistance programs.

I would like to commend the committee for a broad ranging set of legislative measures meant to improve the labor conditions in New York City. While many of the proposed pieces of legislation are good and well-intended, we do have some concerns on issues that may overly impact the ability of businesses to comply and remain successful. Also, with the addition of so many pieces of legislation at the same time, we are concerned for the cumulative impacts. The following are our observations and some recommendations for ways to move forward:

Int. 1384; We believe that this needs further consideration and study as well as conversation between business owners and not-for-profits concerning the feasibility of this benefit to all parties involved.

Int. 1388; There are many employees who are seeking additional hours and overtime opportunities, this would hamper their ability to earn those hours. We encourage the amendments to the proposed legislation that would allow for the option for employees seeking the hours to "clopen" while protecting those who do not.

Int. 1395; The flexibility of part time work is an attractive feature for many employees. We believe that hearing from both employers and employees on this matter will be critical because it could limit workers ability to keep minimal hours that they may need to pursue education or other training, or to attend to personal matters.

Int. 1396; We support good protections for scheduling changes and think this is a worthy bill. We believe that 14 days may be too much. We recommend that when this takes effect there should be a review process to determine the impacts on small businesses after a year and reconsideration for the duration depending upon the results



**Brooklyn Chamber  
of Commerce**

FOR THE RECORD

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Int. 1399; Calls for employees to have flexible work schedules, yet this bill may contradict 1396.

For the past five years, government regulations, fines and violations has been one of the top ten obstacles to doing business in Brooklyn, based on responses gathered from the Brooklyn Chamber's Annual Member Issues Survey.

We encourage a serious dialogue with the business community as well as consideration for the phasing of these measures so that they don't take effect all at once, so as to allow businesses to adapt better.

We also would suggest associated campaign of awareness so that businesses are not caught unaware and fined unnecessarily.

We support all policies that are conducive to a thriving and beneficial climate for small businesses. We respectfully ask that the City Council reexamine the proposed bills and consider amendments to those bills.

Thank you for providing us with the opportunity to testify in this case.

AH/vs

# RWDSU

Stuart Appelbaum, *President*  
Jack C. Wurm, Jr., *Secretary-Treasurer*  
Joseph Dorismond, *Recorder*  
Gemma de Leon, *Executive Vice President*

## Retail, Wholesale and Department Store Union

### Testimony by Stuart Appelbaum, President of Retail, Wholesale and Department Store Union, UFCW

Before the New York City Council Civil Service and Labor Committee  
March 3, 2017

#### Intro 1387 Ban of On-Call Scheduling in Retail

Good morning, Chairman Miller and members of the Committee. I am Stuart Appelbaum, President of the Retail, Wholesale and Department Store Union (RWDSU). I am testifying today in support of legislation that would ban the exploitive practice of on-call scheduling in the retail industry.

The RWDSU represents 100,000 workers in the United States, with 45,000 residing in New York. RWDSU members work in retail, food processing, and many low-wage sectors. Our union is deeply involved in progressive activism and movements for economic and social justice. RWDSU is committed to raising job standards across industries and occupations.

On-call scheduling is a pervasive and exploitive employment practice where workers do not find out until just before a scheduled shift if they will be required to work or not. It is a form of precarious employment that has spread throughout low-wage industries and is harmful to workers and their families. It shifts the costs of doing business from the employer to low wage employees, those who can afford it least. Research has even shown that it has negative impacts on businesses in the form of higher turnover and reduced morale leading to lower customer satisfaction.

The ability to join a union is one of the cornerstones of America's economic prosperity. The most effective way to bring about good and stable jobs has historically been through collective bargaining. Exercising this right helped workers win time off to spend with family and friends, decent pay, health care, retirement security, and protections against dangerous or discriminatory working conditions. In retail, not everyone has the protections of the union. Workplace regulation is required to stamp out the harmful practice of on-call scheduling and protect workers who need it most. Regulation raises the bar so employers are not forced to compete in a low-road fashion, driving standards down and exploiting workers.

Workers whose shifts change drastically week to week or day to day and hour to hour cannot plan for childcare, college classes, or take a second job. This ban will bring about predictable scheduling and stabilize workers lives, and have a positive impact on businesses also. It is time now for New York City, the retail capital of the world, to pass predictive scheduling and set the standard for good retail business practice.

Thank you for your time and allowing me to testify.



**Testimony submitted by Prof. Anna Haley-Lock  
to the Committee on Civil Service and Labor, New York City Council  
Council Member I. Daneek Miller, Chair  
re Fair Work Week Legislation (Intro 1396, 1395, 1388, 1387, & 1399)  
March 3, 2017**

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Good morning. My thanks to Chairperson Miller and members of the Committee for the opportunity to provide testimony.

I am an Associate Professor at Rutgers University's School of Social Work who has studied conditions of lower-wage and hourly jobs, from both employer and employee perspectives, for the last 16 years. I have been asked to testify today to share evidence from my research that supports the need for passing the protections provided in the bundle of Fair Work Week Legislation now under this Committee's consideration.

I will summarize relevant findings from 5 of my research projects:

- 1) a study of how parents' job scheduling challenges affect their engagement in their young children's schooling;
- 2) research illuminating employers' strategies for balancing its needs for labor and other cost containment and its employees' needs for schedule stability, including a case study of Costco; and
- 3) an examination of the promise and limitations of state "reporting pay" and "call-in pay" laws.

These research findings identify substantial hardships that some hourly service workers face in being scheduled for variable, unpredictable, and limited hours; the ability of employers to adapt successfully to limits being placed on their discretion over scheduling their employees; and the foundation that exists for New York City to build on innovative but insufficient state regulative efforts to stabilize workers' hours.

**Negative Scheduling Impacts: Parents' Engagement in Children's Schools & Education**

Plenty of research now documents that employer-driven schedule instability negatively affects workers and their families. For workers, such scheduling practices make it hard to attend school to increase one's skills and upward mobility, to get a second job, and to budget and save for the future.<sup>1</sup> These practices also contribute to parents' having less and lower quality time with their children, and difficulty arranging child care.<sup>2</sup>

With Prof. Linn Posey-Maddox, I have investigated how parents' work schedules influence their engagement in their children's schools – that is, whether and how they participate in

school and classroom activities that support their children, other students, and schools as institutions.<sup>3</sup>

Prof. Posey-Maddox and I conducted in-depth interviews in 2012 and 2013 with 17 employed mothers of elementary school-aged children. Their employment conditions in low-wage hourly jobs, including chain restaurant server and retail store customer service representative, shared the features of a lack of control over or even input in their work schedules; being required to provide their employers far-in-advance notice of their own absences, even as their employers posted workers' schedules at the last minute; employers' requiring employees to extend their shift end times; and uncertainty about how many hours they would get on a shift, with frequent early send-homes. Schedule "flexibility" for the women holding low-wage jobs in our study came in the form of having to ask their employers for time off from work, often one or two weeks in advance and open to being rescinded by the employer after it had been approved, and often unpaid. Yet this was a primary way these moms had to try to engage in their children's school activities, given the instability of their job schedules.

*Restaurant Example: Mary*

Mary waited tables at a national restaurant chain while raising her sister's two young girls. Her work schedule was posted for a week at a time, a few days before the work week began. From one posted schedule to the next, Mary never knew when she would work; her work days, shifts, and number of hours regularly changed. As she described it, even then her official schedule was "just a guesstimate." After posting, her employer would typically further adjust her hours:

"It's been days that I started at 11 [a.m.] and was done before noon. Yeah, so those are the days you want to cry. If it's slow and nobody's coming in, they cut the floor [servers]...."

All of this left Mary unable to know when she would be available to be involved in her nieces' school. She was desperate for whatever extra work hours came her way, even if that meant she would miss a school activity she had planned to attend – had she received her work schedule in enough advance to make arrangements to go.

Intro 1396 and 1395 would help Mary's counterparts in fast food settings better anticipate their work schedules and thus plan to participate in school and other (family, community) events; receive a monetary premium for the financial and logistical inconvenience of having work hours changed after the schedule was posted and the rest of life arranged to accommodate it; and give them priority for getting additional hours when those become available, addressing the work-hour scarcity concern that prompted Mary to sometimes skip school engagement so she could earn more.

*Retail Example: Vicki*

Vicki worked as a customer service representative at a retail store. She could arrange for time off in order to participate in activities at her children's school, but could not depend on her supervisor to honor those plans. She reported that she could "never honestly tell

you when I'm going to be out of work.... If we get slammed 5 minutes before we close, we still have to help everybody that's in there." Vicki indicated that if she declined to stay on shift until all customers were served, her employer would give her fewer or less desirable hours later on. Because of this, Vicki said she repeatedly sacrificed plans to attend events at her children's school. This employer's practice also made for very long days sometimes, which sapped Vicki's availability and energy for participating in school events and even family life:

[O]n the long days, like Wednesdays working from 8 in the morning to 7 at night when I get out of there, you know, I don't want to do anything when I get done with work. I just want to go home and just relax. I don't even want to make dinner."

Intro 1387's provision giving employees the right to decline hours that employers ask them to work at the last minute would encourage an employer like Vicki's to better staff the ends of shifts and offer legal protection to Vicki from employer retaliation if she declines to work the extra time.

For both Vicki and Mary, Intro 1399's provision of the right to request and have good faith consideration of flexible work arrangements would make a big difference in their ability to balance employment, family life, and the school obligations they sought to fulfill. This is particularly the case where they were both eager to work as many hours as possible; in Vicki's case, where she was being required to request approval to be absent from work well in advance; and in Mary's case, where she never had access to paid time off.

### **How Firms Can Balance Labor Flexibility with Schedule Stability**

Prof. Susan Lambert and I are conducting a study of big box retailer Costco's corporate and warehouse policies and day-to-day warehouse practices with respect to scheduling hourly employees, including cashiers, cashier assistants, and stock clerks. From 2007 through 2012 we interviewed company executives and warehouse, department and human resource managers at seven Seattle and Chicago area warehouses. We found striking lessons in how Costco aims to balance the business need for "labor flexibility" and employees' need for work hour stability through the company's elective adoption of policies and practices with similarities to Intro 1396, 1395, and 1387.<sup>4</sup>

As of 2012, Costco's balanced approach was substantially rooted in its guaranteeing a minimum of 38 weekly hours to its regular-status full-time employees, and a minimum of 24 to its part-time employees; its first offering extra hours to those part-timers when the hours became available; and the firm's setting an expectation that warehouse managers maintain at least 50 percent of their hourly jobs at full-time status. In that context, managers in charge of scheduling – those leading departments most directly, with oversight from warehouse managers – had a strong incentive to concentrate hours among those workers and avoid padding their payroll with employees who are given very limited weekly hours. As one manager told us, "We have to make sure workers get their hours." At that time, managers also reported to us that those hours were posted a minimum of 14 business days in advance.

Across the warehouses we studied, Costco managers nonetheless stressed that they carefully monitored labor cost-to-sales ratios, much like their counterparts in competing retail firms. Frequently tracking these data in 15-minute intervals, managers reported making adjustments to staffing when traffic slowed in their warehouses. Those adjustments, however, often emphasized labor reallocation rather than reduction: that is, employees were rotated from slower to busier traffic areas. Costco was in a strong position to implement this strategy because of its commitment to front-line employee cross-training.

But reallocation appears to work in considerably smaller establishments as well. For my study of full-service restaurant jobs, in 2012 and 2013 I interviewed 37 owners and managers of small- to medium-sized restaurants, including independently-owned establishments throughout Washington State and sites of two national, low-end chains in suburban Seattle, Chicago, and Vancouver, Canada. My findings from the Canadian sites are noteworthy given that British Columbia had adopted a law guaranteeing employees “minimum daily pay” (2 hours for up to a 4-hour scheduled shift; 4 hours for up to an 8-hour shift, much like state “reporting” and “call-in” pay laws in some US states).<sup>5</sup> While many of the Seattle and Chicago area restaurant managers, who were not covered by such work hour regulation, reported reducing or cancelling shifts when business slowed, their Canadian counterparts noted that such sudden labor reduction “wouldn’t be worth it” due to the law. They then described assigning waiters deep cleaning or food prep tasks instead, among several options.

A final take-away point from the Costco executive and manager interviews is the company’s emphasis on controlling business costs in general, and not just or primarily labor costs. We repeatedly heard about the importance of effective worker safety practices as a way of “protecting wages”; strategic management of product selection, ordering, pricing and in-store displays to promote sales; and waste reduction. While the company is an expansive and growing one with comparatively large individual sites, it is our sense that many retail and other service sector employers could import or adapt Costco’s strategies for labor and other cost control. Their managers’ reflections suggest the potential value, if scheduling legislation is implemented, of offering employers technical assistance on not only changing scheduling practices and monitoring work hours, but also alternative approaches to labor and other business cost management.

### **Moving Beyond State “Reporting Pay” and “Call-in Pay” Laws**

As Committee members are no doubt well aware, the 1938 U.S. Fair Labor Standards Act does not regulate employers’ scheduling practices. At the state level, “reporting pay” or “show up pay” laws (in 8 states, including New York, and D.C.) and “call-in pay” laws (in 22 states, also including New York and D.C.) require employers to pay a minimum number of hours per shift even when an employee is not given a full shift’s worth of tasks to complete. In New York State,<sup>6</sup> employers are required to pay workers for a minimum of 4 hours per shift (3 in restaurants) or for all hours scheduled if fewer than 4; at least 6 hours across two shifts (or all hours scheduled, if fewer); and at least 8 hours across three shifts (or all hours scheduled, if fewer). If employees work fewer than these required minimums,

“reporting pay” or “call-in pay” is compensated the minimum wage rate. This and the other state statutes, some adopted decades ago, were designed to help smooth workers’ hours and income by making firms place a financial value on what they assert is an important business imperative of “labor flexibility.”

Though there is limited case law reflecting allegations of violations of these statutes,<sup>7</sup> reporting and call-in pay laws in New York and other states have likely not reached the full range of employer scheduling practices that are destabilizing for employees. As my collaborators Charlotte Alexander, Nantiya Ruan and I observed,<sup>8</sup> they also offer poor guards against several potential adverse employer reactions. Reporting and call-in pay granted by the state laws is typically very modest; in New York, it is calculated at the rate of minimum wage and capped at 4 hours. For an employee scheduled for 4 or more hours who had an entire shift cancelled, at New York City’s current \$11 minimum hourly wage they would be due just \$44, regardless of timing of the cancellation. By contrast, Intro 1396 assures fast food workers wage premiums for employers’ late scheduling changes, from \$45 for changes with at least 24 hours’ notice to \$75 for less notice. Intro 1387’s banning of work hour reductions to retail employee schedules within 72 hours of work time similarly stabilizes workers’ earnings as well as work-life fit. New York City is placing a fairer market value on financial and logistical harm to employees.

State reporting and call-in pay statutes may also have encouraged employers to delay posting employee work schedules, to permit them to make very late adjustments that would evade reporting or call-in pay requirements. Intro 1396, with its provision requiring employers to post 7-day schedules at least 14 days in advance, addresses this. The New York State statute may also encourage employers to schedule their employees for very short shifts, or not at all – favoring “call-in” staffing – to evade applicability of the regulation. Intro 1387 takes an important step in fixing this vulnerability by prohibiting on-call scheduling of retail employees and guaranteeing them at least 20 hours of work per 14-day period.

New York City’s proposed package of scheduling legislation strengthens existing New York state law by eliminating loopholes and increasing penalties for disruptive changes to and shortfalls in workers’ hours. The bills together create a robust set of protections that are consistent with the intent of the U.S. Fair Labor Standards Act and New York State reporting and call-in pay acts, updated for the realities of contemporary hourly service work, and within the capacity of American retail and food service businesses to implement.<sup>9</sup>

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For the Record  
3/3/17

Testimony of Janice Fine  
Associate Professor  
Labor Studies and Employment Relations  
March 3, 2017

I appreciate the opportunity to testify today in support of the proposed payroll deduction ordinance for fast food workers to participate in not-for-profit organizations. African Americans, immigrants and the working poor are a substantial presence in American urban workforces today, but in contrast to earlier periods in U.S. history, mechanisms for their participation at work, integration into community life and American politics and society more generally, have narrowed. Many of the institutions, civic organizations, churches, and especially unions that may once have performed these functions have declined dramatically. In particular, membership in unions has declined steadily, from a high of 35% of the overall workforce in the 1950's to today's low of 10.7%. It is estimated that unions now represent 6.4% of private sector workers, or fewer than one in fourteen workers. Food service workers are estimated to have a 1.6% unionization level, and as an occupation, food preparation and serving related positions are 3.9%. At 23.6%, New York State has the highest unionization rate in the country. Nevertheless, fast food workers in New York City, as elsewhere in the United States, remain largely without organization.

One of the key institutions in American society that played a central role in the overall regulation of employment relations, including the recruitment and promotion of workers, the determination of wages and benefits and the regulation of workplace practices including training, health and safety and work hours and conditions, was organized labor. But in the vast majority of firms, employers have pulled back from collective bargaining agreements, and the pattern bargaining of the past, which effectively took wages out of competition well beyond unionized firms, has been effectively eliminated. Now, non-union firms are in the majority in most industries and they are setting the pattern. Among high school graduate workers, between 1978 and 1997, the unionization rate was almost cut in half—from 37.9% to 20.8%.<sup>1</sup> The majority of workers in America today find their wages back in competition and set through highly individualistic means. The manufacturing sector of large, vertically integrated firms, upon which the American system of industrial relations was predicated, is no longer dominant. Economic restructuring has stimulated a burgeoning service sector, which is largely not unionized, decentralized, weighted toward low wage jobs and typified by more impermanent relationships between individual employers and employees. Because service sector jobs in the U.S. tend to be much less aligned with manufacturing wages, non-college educated workers have seen a significant erosion of wages and compensation.

New economic realities call for new union models and structures, but labor law -- once conducive to the organization of unions -- has turned against the project. After the Second World War, Congress, the federal bureaucracy and federal and state courts abandoned the traditional "balance of power" paradigm that was enshrined in the National Labor Relations Act. Beginning in the 1950's, employers gained new rights to fight union organizing efforts and developed new strategies, and some of labor's most potent weapons, such as the secondary boycott, were eliminated. Anti-union statutes and court rulings were bad enough, but there was

another problem—labor law, with a few important exceptions, came to view all union organizing as synonymous with majority unionism—the model of organizing enshrined in the National Labor Relations Act. This Act required unions to hold and win elections, and conferred the right to exclusive representation upon those who won. But it dictated a model of unionism that was mismatched to the structure of more and more industries. As Hertzberg, Alic and Wial argue, “Current policies...effectively deny representation to many workers who move among small firms. Framed in the 1930’s, U.S. laws were designed to encourage unionization in big factories. These laws are poorly suited to an era of small service establishments and transient employment attachments...After six decades of statutory amendments and judicial interpretations, the NLRA has become a straitjacket. It offers most workers only a single choice: they may join, by majority vote, a worker association modeled on the traditional industrial union, or else do without collective representation altogether.”<sup>2</sup>

The smaller size of firms and establishments in the service sector, as well as the higher rate of turnover and contingent employment in this sector, makes organizing and collective bargaining at the level of the individual firm more difficult to do, and unlikely to be effective in terms of raising wages or improving job quality. As Hertzberg, Alic and Wiall state the case, “To protect workers and influence business strategy and work systems, unions must be able to bargain jointly with multiple employers on behalf of workers in an occupation, industry, or business network, often within a small geographical area.” Labor law does not prohibit multi-employer agreements, but old assumptions about what forms a “community of interest” have led the NLRB most often to determine narrow bargaining units--generally confining them to individual firms. The law thus makes it difficult for other types of workers and unions to get in the game. A more “user-friendly” version of the law would allow workers within a specific geographic area to seek representation and collective bargaining on a multi-worksites basis without a requirement that they first organize worksite-specific units.<sup>3</sup>

Into this breach new types of labor market institutions have emerged that are trying to fulfill a dual role of defending and working to raise wage standards and developing mechanisms for voice for low wage workers in the broader society. I call these organizations “community unions” because they are based in specific geographic and ethnic communities (as opposed to specific workplaces) and they are made up of workers organizing together for improvements in wages and other conditions of work.<sup>4</sup> The largest category of these community organizations is worker centers. Worker centers are community-based mediating institutions that provide support to communities of low-wage workers. The term “worker center” is a misnomer because they focus not just on workplace matters, but a whole host of issues involving a broad constituency such as affordable housing, public education, and immigration.

Difficult to categorize, worker centers have some features that are suggestive of earlier U.S. civic institutions, including settlement houses, fraternal organizations, local civil rights organizations and unions. They identify with social movement traditions and draw upon community organizing strategies. Other features, especially cooperatives and popular education classes, are suggestive of the civic traditions of the home countries from which many of these immigrants came. Some are based in one specific industry while others are non-industry based, many are a mixture of both--they have specific industry projects as well as other geographic and issue-based activities.

Centers pursue their mission through a combination of approaches:

- Service delivery, including legal representation to recover unpaid wages; English classes; worker rights education; access to health clinics; bank accounts and loans;
- Advocacy, including researching and releasing exposes about conditions in low wage industries; lobbying for new laws and changes in existing ones; working with government agencies to improve monitoring and grievance processes; and bringing suits against employers;
- Organizing, building ongoing organizations and engaging in leadership development among workers to take action on their own behalf for economic and political change.

All across the country, worker centers are involved in ensuring that living wage, higher minimum wage, wage theft, paid sick day, paid parental leave laws, domestic workers bill of rights and others, are actually implemented and enforced. Enforcement begins with workers on the “shop floor:” what they see, hear, experience firsthand and most critically, are willing to share. Workers have unique capabilities to enhance enforcement because they are present at the worksite every day; they have tacit knowledge<sup>5</sup> of the work process, and firsthand experience of working conditions and employer practices, and how these change over time. They are steeped in the culture of the workplace and have relationships with other workers and supervisors. In the absence of “police patrol” enforcement (in which investigators regularly walk workplace beats), if any actor is poised to engage in the “fire alarm” model of enforcement, it is workers at the workplace.<sup>6</sup>

Our conception of worker participation in enforcement is that multiple workers would take part, geometrically increasing the chance that non-compliance would be identified, as opposed to having one investigator with responsibility for monitoring an entire workplace. Worker participation is also important for keeping enforcement dynamic, bottom-up and accountable. Finally, given the higher cost of public officials’ time in comparison with the opportunity costs of workers spending some of their time engaged in enforcement, the optimal enforcement arrangement would be a combination of inputs from both parties.

Flowing from this, worker organizations are commonly said to have access to information on labor standards compliance that would be difficult for state officials alone to gather.<sup>7</sup> It is often only when the organization has vouched for a government agency and worked with workers over time that vulnerable workers are willing to come forward. Building on existing trust between workers and organizations, investigators can gain access to the knowledge and information workers possess about violations. The same holds true for other types of violations, such as discriminatory housing.

When worker organizations understand how industries function, they are able to trace violations’ root causes, making the organizations powerful sources of expertise for inspectors, who seldom specialize in a specific sector.<sup>8</sup> Worker organizations can help gather information about firm practices; through their relationships, networks and reputational credibility, they can encourage workers to file complaints with state and federal agencies, help to gather testimony and

documentation about hours worked, deductions taken, and safety conditions, and then help to assemble the information into formal complaints.

Utilizing the trust they develop with workers, effective organizations can identify the full scope of a subcontractor's operations, expanding cases beyond initial complainants by identifying others who have been impacted. They can act as a resource about community institutions, neighborhoods, leaders, cultural practices, and languages. Through worker networks, they can identify workers employed in problematic firms and industries and provide a safe space, interpretation and facilitation, helping inspectors meet with workers who may be too intimidated to go to a government office. They also have power to compel changes in firm behavior that the state does not always have or choose to exercise; organizations exercise moral power<sup>9</sup> when they document and publicize egregious examples and patterns of abuse, and can hold specific employers publicly responsible. Fearing reputational repercussions, some businesses respond to these pressures.

Worker organizations can also enhance the power of regulators in responding to, and preventing violations. Beneath the veneer of neutral application of law, the street-level bureaucrats of regulatory agencies face a wide range of political pressures.<sup>10</sup> While organizational structures such as civil service protection can reduce such pressures, they can never be fully eliminated. Worker organizations can play an important role, acting as countervailing powers during enforcement operations. For example, union leaders can push regulators to negotiate terms of compliance that are more favorable to employees. Finally, after the act of enforcement, the power of regulators is dimmed by the low probability of a repeat enforcement action. When labor inspectors move on to other firms or industries, reducing the potency of their repertoire of action, worker organizations can continue to press employers to comply with regulations.

Worker centers vary in terms of their organizational models, how they think about their mission and how they carry out their work. Nonetheless, in the combination of services, advocacy and organizing they undertake, worker centers are playing a unique role in helping low wage immigrants navigate the world of work in the United States. They provide low-wage immigrant workers a range of opportunities for expressing their "collective voice".

In a recent research project, I studied the impact of the CLEAN carwash center in Los Angeles. In focus groups conducted in the summer of 2014, *carwasheros* enthusiastically described the improvements that had come with the aggressive enforcement that was undertaken by the Division of Labor Standards Enforcement, the state Attorney General's office and the LA District Attorney. Many pointed to never having seen a labor investigator until the campaign began but having had repeat visits over the past four years. "We didn't know what our rights were," one worker said, "but now we do."

Beyond the heightened enforcement, many pointed to the transformation that unionization brought to their workplace. "Our salaries went up because of the union..." said one worker. "When we used to tell the boss we needed more hours or more money, he would tell us to go and look for another job somewhere else but things started to change when we organized with the campaign," said another.

Positive changes have not been restricted to unionized carwashes. Several of the non-union *carwasheros* described significant improvements at their workplaces. One worker said, “they used to pay us cash, now they pay us with checks” and another said that they had stopped paying daily rates and were now paying by the hour. One worker pointed to the fact that managers now have time clocks and the workers themselves punch in every day whereas before the managers would fill out their timesheets. “Before they never gave us protective equipment like gloves and aprons. We would get injured on the job and they would say ‘too bad’ now they give you something...”

What distinguishes worker centers from others that might share their normative concerns and policy agenda is a focus on recruiting low wage workers into membership organizations in order to speak and act on their own behalves. In 1992, there were five worker centers nationwide. By 2005 there were more than 139 organizations, by 2012, the last time there was a comprehensive census taken, there were 214. I have studied these organizations closely for twenty years. Most have attempted to hand collect dues from their members, but with a handful of exceptions, have found this difficult to institutionalize. Many of their members are unbanked, which has added significantly to the problem. Nevertheless, in a set of surveys and focus groups I conducted in 2006 with low wage workers involved in worker centers, the vast majority said they would be willing to make monthly donations to their organizations.

As another example, when I was doing research for my dissertation, I spent three years going in and out of Baltimore as a participant/observer of the Solidarity Sponsoring Committee, a citywide organization of low wage workers being created by BUILD, the Industrial Areas Foundation affiliate there. They were the organization that won the first living wage ordinance in the country, along with many other victories for low-wage workers in the city. I once asked for the membership database and discovered that more than 3,000 individuals had, at one time, paid dues to the Solidarity Sponsoring Committee. The problem was, almost all of them had only done it once or twice! Without payroll deduction, they never figured out an efficient way to collect dues.

In New York City, there are few organizations that are approaching low wage service sector workers. The proposal you are considering today would mean that if there are 20 people in a building, 5 can sign up and the company has to offer payroll deduction for the five who do want to belong.

So, why does it matter where the money for an organization comes from?

In his case study of the United Farm Workers, Marshall Ganz argued that “...organizations that depend on constituency based, task-generated resources (e.g. members’ dues) must devise strategies to which their constituents respond. By contrast, organizations that rely on outside resources (e.g. grants) can be less responsive to the constituencies that are critical to their strategic success. It is often the case, for example, that relying on outside resources can

discourage learning – in fact as long as the bills keep getting paid, leaders of such organizations can keep doing the same things wrong”.

Serious commitment to and at least partial reliance on membership dues is a fail safe to ensure that an organization continues to represent the interests of those it claims to speak on behalf of. There is an interesting analogy--client involvement in class action school desegregation lawsuits brought by the NAACP Legal Defense Fund in the wake of *Brown v Board of Education*. In an article entitled “Serving Two Masters,” legal scholar Derrick Bell wrote that although lawyers always claimed to speak on behalf of a class of parents, the financing of their cases never depended upon them. The lawyers had their own interests in the cases and were not always accountable to the parents, especially when lawsuits stretched on for years and the lawyers’ positions diverged from those of current parents with children in the school systems.

Fundamentally, it is an organizational culture question. What happens if an organization focuses on membership recruitment and on asking members to officially join, which in part involves asking for dues? To pull it off, it is about making a pact with fast food workers that they will mix their money and their labor with the organization. The organization is forced to make its case daily to members and potential members, and to get members to make the case to potential members. The organization is compelled to check its ideas and hunches with the people it purports to represent, and it is also how the organization gets to action on a much larger scale. The UFW had a rule that they would not pay their organizers until the workers were able to pay them. Cesar Chavez explained: “This puts pressure on the organizer to bring in the bacon so that he can get his cut. We felt that during the early stages of the union it shouldn’t be subsidized, because this would create a dependency. We wanted the workers to prove to us and we wanted to prove to ourselves, that they really wanted what we were doing. They assured us they really wanted a union by their monthly dues.” Systematic recruitment gets to numbers and the legitimacy and labor market and political power that comes with numbers. Coincidentally, it also gets you to financial sustainability.

Workers are better off when they have representation, but society as a whole is better off too, and not just economically. Prominent political scientists and sociologists have found that society is stronger when there is a thriving civic sector. This is true for a variety of reasons: at the individual level, people are socialized into norms of shared trust and cooperative social action when there are substantive avenues for participation, thus there is less of a feeling of disconnection between elites and ordinary citizens. Robert Putnam in *Bowling Alone* famously argued that it is through civic participation in organizations that people develop the social connections and social trust that are so essential to democratic governance. Theda Skocpol and Morris Fiorina argued that democracy was strengthened when “middling and subordinate groups in society” challenged concentrated power, amassed resources, organized, leveraged their power and asserted themselves through voluntary associations.<sup>11</sup>

Putnam documented a sharp downward spiral across a range of institutions from the 1960’s onward. After the mid-1980s, the decline in the rate of active organizational involvement—the percentage of Americans who served as officers or on committees (or both) for a local club or organization in the past year—accelerated. The national study on Americans’ time

consumption—conducted each decade between 1965 and 1995, where participants were asked to complete “time diaries” for a randomly chosen diary day—shows that the average time investment in organizational life fell from 3.7 hours per month in 1965 to 2.9 hours in 1975, and 2.3 in 1985 and 1995. In 1965, 7% of Americans spent some time in a community organization on an average day while only 3% did in 1995. Data from the US Commerce Department provides us with another interesting statistic. In 1929, six cents out of every dollar of leisure and recreational consumer spending was for club and fraternal dues. The figure fell to 4 cents in the 1950s, rose in the 1960s, and fell to 3 cents in 1997.<sup>12</sup>

In recent research carried out by my organization, the Center for Innovation in Worker Organization at Rutgers, we find that the downward trend continued through the first decades of the new millennium. From 1974 – 2004, membership in church-affiliated groups in the United States decreased significantly while membership in professional and academic societies grew slightly. From 2004 – 2014, Americans who belonged and actively participated in political parties, trade unions, professional associations, religious organizations, and sport, leisure and cultural clubs all decreased. From 2004 – 2014, Americans who said they had “never belonged” to political parties, trade unions, professional associations, or religious organizations increased across the board. From 2004 – 2014, there was a significant decline in the number of people who said they had donated money or raised funds for a social or political activity in the past year as well as in the number who said that they had not done it and never would do it.

Americans with higher income and educational attainment are much more likely than the less educated and less well-off to take part in political activities. For instance, around 60% of people having a degree of college or higher education were involved in civic activities, while only 33% of people with no high school diploma participated in such activities. The Internet has served as a platform for people who already participated to go online with their political activity rather than as a platform for those who were inactive to increase their political activity. Although socioeconomic status is more fluid among Web users than all respondents, any online political activity, any online act among Web users, any offline act, and all political activity rise sharply with socioeconomic status.<sup>13</sup>

This proposal offers an opportunity to reverse the trend for workers who deeply need it by affording them an efficient means of contributing to nonprofits through which they can organize around a variety of workplace and community concerns, and will have a positive impact on New York City well beyond the fast food sector.

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<sup>1</sup> Lawrence Mishel, Jared Bernstein and John Schmitt, *The State of Working America 2000-01*, (Ithaca: Cornell University Press, 2000), 182. The authors add that between 1978 and 1997, unionized high school graduates earned about 21% more than equivalent non-union workers.

<sup>2</sup> Ibid: 15, 162

<sup>3</sup> Hertenberg, Alic and Wial discuss the difficulties: "Unions have also favored narrow units because they perceive them as easier to organize. Not even the NLRB, moreover, can require units to combine for bargaining purposes. For several bargaining units to negotiate together, all the relevant unions and employers must voluntarily agree to joint bargaining." p. 163.

<sup>4</sup> This notion of community unionism has been developed through a series of discussions with Michael Piore and Richard Locke as well as through a few key articles of theirs. Piore's are: "The Future of Unions" in *The State of the Unions*, Strauss, Gallagher and Fiorito, eds., (Wisconsin: Industrial Relations Research Association Series, 1991) and "Unions and Politics" a paper presented for the Conference on the Future of Unionism in Manufacturing in 1978. Locke's is: "The Demise of the National Union in Italy: Lessons for Comparative Industrial Relations Theory" *Industrial and Labor Relations Review*, Vol. 45, No. 2 (1992). Also, see appendix 1 on history of community unionism as a term.

<sup>5</sup> Michael Polanyi, *The Tacit Dimension* (Illinois: University of Chicago Press, 1967).

<sup>6</sup> Mathew D. McCubbins & Thomas Schwartz. "Congressional oversight overlooked: Police patrols versus fire alarms," *American Journal of Political Science* (1984): 165-179.

<sup>7</sup> Tess Hardy, "Enrolling Non-State Actors to Improve Compliance with Minimum Employment Standards," *The Economic & Labour Relations Review* 22, no. 3 (2011): 117-140; Fine & Gordon "Strengthening Labor"; Janice Fine, "Solving the Problem from Hell: Tripartism as a Strategy for Addressing Labour Standards Non-Compliance in the United States," *Osgoode Hall Law Journal* 50, no. 4 (2014): 813-44; Matthew Amengual, "Pathways to Enforcement: Labor Inspectors Leveraging Linkages with Society in Argentina," *Industrial & Labor Relations Review* 67, no. 1 (2014): 3-33.

<sup>8</sup> Fine "Solving the Problem".

<sup>9</sup> Gene Sharp, *Gandhi Wields the Weapon of Moral Power [Three Case Histories]* (Navjivan: Navjivan Trust, 1997); James M. Jasper, *The Art of Moral Protest: Culture, Biography, & Creativity in Social Movements* (Chicago: University of Chicago Press, 2008); Jennifer Jihye Chun, *Organizing at the Margins: The Symbolic Politics of Labor in South Korea & the United States* (New York: Cornell University Press, 2011); Janice Fine, *Worker Centers: Organizing Communities at the Edge of the Dream* (New York: Cornell University Press, 2006).

<sup>10</sup> Michael Lipsky, *Street-Level Bureaucracy, 30th Ann. Ed.: Dilemmas of the Individual in Public Service* (New York: Russell Sage Foundation, 2010); James G. March & Johan P. Olsen, *Rediscovering Institutions* (New York: Simon & Schuster, 2010); James Q. Wilson, *Bureaucracy: What government agencies do and why they do it* (New York: Basic Books, 1989).

<sup>11</sup> Skocpol and Fiorina, "Making Sense of the Civic Engagement Debate" in *Civic Engagement in American Democracy*, Brookings Institution and Russell Sage Foundation, New York, 1999, pp. 14-15.

<sup>12</sup> Ibid., p. 60-63. The figure stayed largely unchanged around 3 cents between 2000 and 2007 according to Statistical Abstract of the United States, 2010 by the United States Census Bureau.

<sup>13</sup> Janice Fine and Jung Ook Kim, *Digital Civic Engagement Trends*, Center for Innovation in Worker Organization Research Series, Brief #2 Trends on Digital Civic Engagement, September 2016.

**Testimony of  
Barbara Allen  
Women's City Club of New York**

**New York City Council  
Committee on Civil Service and Labor**

**In relation to Intro. 1384, 1387, 1388, 1395,  
1396, and 1399**

**March 3, 2017**

**City Hall  
New York, New York**

**Contact: Barbara Allen, (212) 353-8070**

## **INTRODUCTION**

Good Morning Chairman Miller and members of the Committee on Civil Service and Labor. My name is Barbara Allen, and I am a member of the Public Policy Committee of the Women's City Club of New York, as well as the Chair of the organization's Task Force on Fair Work: Flexibility and Predictability.

Today, I am speaking on behalf of the Women's City Club, a non-profit, non-partisan, multi-issue activist organization.

I wish to thank you for the opportunity to testify on the proposals before you today, which represent a clear path forward to protecting the rights of many members of our city's vital workforce.

## **LEGISLATION**

For more than a century, our organization has been dedicated to dismantling economic, racial, and gender inequalities through education, issues analysis, advocacy, and civic participation.

Since our founding days, we have been committed to reducing income inequality in our city and ensuring equal opportunity across all five boroughs to improve the quality of life for all New Yorkers.

While the Fight for \$15 already has been rightly focused on higher wages for millions of people across the United States, a similar effort has focused

on workplace practices that are unreliable and inflexible. Most American workers are paid by the hour, and the job sectors facing some of the largest growth are the fast-food and retail industries, yet these involve jobs that feature precarious schedules and unpredictable hours.

Consider these findings from a University of Chicago report that examined work schedules among early-career employees in the United States. The report found that about 44 percent of workers overall, and half of hourly workers, said they had no say into when they started or finished work.

Further, 41 percent of early-career workers in hourly jobs overall – or 57 percent in part-time hourly jobs – reported that they had only a week's or less than a week's notice about when they would have to work in the coming week. And, short notice and a lack of schedule control are significantly more common among workers of color than white workers.

The Fair Workweek measures before you today are vitally important to address longstanding practices that have forced countless New Yorkers to struggle to put a roof over their head and food on their tables. Collectively, these bills deliver a clear signal that our City government cares about all New Yorkers, and not just a privileged few.

These measures offer remedies to systemic problems that the Women's City Club strongly believes must be addressed. They are necessary to ensure a balance between family and work life, and recognize the struggle that many parents face in providing proper child care or caring for elderly relatives or family members. The measures afford them a level of flexibility

and predictability in their work schedules – which is extremely important for workers at the lower end of the wage scale.

Intro. 1387 presents a reasonable process to prevent employers from taking advantage of workers by requiring them to be on-call at all times, and require a minimum of hours that the employee should work every two weeks. Intro. 1388 improves the quality of life for workers in the fast-food industry, establishing a barrier to employers requiring them to work back-to-back evening-to-morning shifts – what are called “clopenings” — without a reasonable break in between.

And, Intro. 1395 gives those workers the opportunity to fill shifts before those positions are made available to new employees, setting them on a path not only toward more pay, but also full-time employment.

Workers in the fast-food industry are beholden to many practices that keep their pay low, and their schedules sporadic. They often begin each week worried about their next paycheck, whether they will earn enough to pay bills, feed themselves and their families, and afford rent. Many of these employees confront last-minute demands to work, throwing their personal lives into disarray – particularly those who must seek child care, or must reschedule healthcare appointments.

It's important that you also support Intro. 1396, which requires fast-food employers to provide advance notice of work schedules, and set higher pay when last-minute schedule changes are necessary. These

accommodations provide employees with peace of mind, reduce their stress, and allow them to better care for their children and relatives.

Finally, Intro. 1399 grants these employees the ability to request a change in their work schedule due to emergency situations, ones that could involve child care or personal health issues. It requires a good faith response to any employee request, and ensures that employees are not retaliated against.

## **CONCLUSION**

The stark reality is clear: workers in occupations across the labor market are at considerable risk of unpredictable and unstable work hours over which they have little control.

The ability to find stable work with predictable income has become a luxury in the 21<sup>st</sup> century. As a City, we have made considerable strides in wage increases, universal pre-K, and paid sick time.

Yet, many part-time workers are not able to take advantage of these benefits when work schedules are erratic and last-minute changes can cost them their job. The measures before you today are a good, first step, and we encourage you to consider similar challenges faced by workers in other sectors in the future.

The Women's City Club strongly urges the New York City Council to pass this Fair Workweek legislation. As a City, State, and Nation, we can only be

stronger when we adopt measures that level the playing field and improve the quality of life for all.

Thank you.

Hello my name is Harmony Higgins. I work at Chipotle and have worked in the fast food industry for three years.,

Thank you Chairperson Miller and Committee Members for holding this hearing.

The fast food industry can make workers feel like their lives matter less than stores making money.

Restaurants over hire and under schedule workers without worrying if any one worker has enough hours to make ends meet, let alone save for the future. I am currently pregnant and expecting my child in July. I work 12 to 18 hours a week but need to work more. However, my store continually hires new people so they have a larger pool of workers to call in. With so few hours for each worker, morale in the store is low and turn-over is high. It is hard for workers to develop loyalty to the company when they can't imagine it supporting them long-term.

My current location requires that workers submit the dates of days they can't work two weeks in advance. Unfortunately, workers only find out about their schedule each Sunday for the next week. Our requests for days-off are routinely ignored and late changes always happen. This makes it impossible for me to plan my budget as I never know much I will actually earn. I try to support my Grandma and my Mum but without a steady income, it is hard to know how much I can give and how much I should put aside for rent and bills.

These bills will help workers by requiring stores to set schedules two weeks in advance and will deter stores from making late changes by mandating shift change premiums. The bills will also help workers earn better incomes by ensuring that existing workers are offered new hours when they are available.

To keep strengthening the voice of fast food workers we need to be able to form our own organization that can educate people about their rights, deal with problems in the industry and help to address issues that affect our lives outside of work. We need justice on the job and we need justice for our kids and our community. The Fast Food Worker Empowerment Bill would make it easier for workers to pool their resources by making contributions to non-profit that is fighting for them.

I urge you to pass these bills help fast food workers build lives filled with dignity and respect.

Thank you.

**TESTIMONY OF JOAN MORIARTY  
NYC CITY COUNCIL  
MARCH 3, 2017**

I would like to thank the members of the New York City Council for hearing my testimony today in support of the fast food scheduling and empowerment bills. I am Joan Moriarty and I have had the honor to serve for the past few years as the Research Director for the Fight for Fifteen. In this role, I have led a team of talented researchers and others who have developed a deep understanding of the structure and dynamics of the fast food industry among the various actors within it.

In my testimony, I plan to touch on three topics related to the structure, finances and operations of the fast food industry: (1) the concentration of the fast food industry and dominance of large corporate chains; (2) the predominance of the franchising model in the industry and what sets franchisees apart from traditional small businesses; and (3) the pervasive use of corporate-wide scheduling software — all of which help to explain why all chain fast food restaurants — both those that are corporate and franchisee-operated — are well-equipped to handle the requirements of the proposed legislation.

**The Fast Food Industry is highly concentrated**

We researched concentration in the fast food industry using data on fast food establishments from AggData, a leading provider of brand-specific establishment lists, in February of this year. According to this data, there are nearly 3,300 chained fast food locations at more than 120 chains spread across the city.

Chained fast food in New York city is highly concentrated. Taken together, the top 5 chains by store count in the city — Dunkin Donuts, Subway, Starbucks, Baskin Robbins and McDonald's — make up a majority (54 percent) of chained fast food store locations in the city. When you add the next five largest chains — Burger King, Popeye's Chicken, Dominos, Chipotle, and Golden Crust — the top 10 make up nearly two-thirds (67 percent) of all chained fast food store locations.

**The fast food industry is immensely profitable**

In 2015 alone, the top 10 publicly-traded fast food chains in New York city based on store count had net income (profit) in excess of \$9.8 billion. The figure would be much larger if we included the profits of fast food giants like Subway and Little Ceasars, but they are excluded from these calculations because they are privately held and thus release little or no corporate financial information.

In addition, these corporations make significant payments to other stakeholders, such as shareholders, in the form of dividends and share repurchases. These practices add little or no appreciable value to the firm. The latter practice, in particular, has increasingly come under fire by long-term investors who

argue that share repurchases simply result in an increase in the stock price, which is often used as a metric for performance-based incentive pay for top executives.

In 2015, in addition to \$9.8 billion in profit, the top 10 publicly-traded fast food chains paid out \$5.5 billion in dividends and spent another \$10.7 billion on share buybacks.

### **Franchising is the dominant business model in fast food.**

Nearly nine of ten fast food chains in New York City make use of the franchising model. Among the top ten franchised chains by unit count, the proportion of their locations that are operated by franchisees exceeds 97 percent.

In the franchising model, a business (the franchisor) establishes a brand and a system of operations and licenses the brand and system to others (franchisees) in exchange for various payments. These payments almost always include royalties to compensate the franchisor for the use of its brand and system, which franchisees typically pay as a percentage of every sale they ring up.

As the International Franchise Association, a franchising trade group, points out, franchising is adding jobs faster than the broader U.S. economy and has done so for each of the last six years.<sup>1</sup>

### **Franchising is a very different model from independent business.**

Franchising has numerous differences from traditional independent entrepreneurship. Those differences consist primarily of advantages and services that franchisors provide franchisees in exchange for significant franchisor control of franchisee businesses.

Services and other advantages provided by franchisors include:

- **Established brand:** According to the IFA: "A franchise provides an established product or service which may already enjoy widespread brand-name recognition. This gives the franchisee the benefits of a pre-sold customer base which would ordinarily takes years to establish."<sup>2</sup>
- **An overall proven "system":** Again, according to the IFA: "The major advantage of buying a business format franchise is that the 'system,' the means for distributing goods and or services, has been developed, tested, and associated with the trademark."<sup>3</sup>
- **Real estate/Site selection:** "Many franchisors provide location assistance, which can range from finding the right site to help with sales or rental negotiation,"<sup>4</sup> according to Franchisedirect.com, a leading website for potential franchisees.
- **Employee and/or management training:** Another major website for potential franchisees, FranchisorGator.com, states, "Typically franchises will have extensive training programs that help their franchisees efficiently hire and train new employees. This eliminates a time-consuming step in getting your business started."<sup>5</sup>

**Table 1: Locations, Franchise Rate and Financials, Top 10 New York City Fast Food Chains by store count**

Rank	Chain	NYC Locations	Percent of all NYC Fast Food Locations	Franchise Rate	FY2015 Net Income (in millions)	FY2015 Total Dividends (in millions)	FY2015 Share Repurchases (in millions)
1	Dunkin' Donuts	611	19%	100%	\$105.2	\$100.5	\$625.0
2	Subway	389	12%	100%	Private company		
3	Starbucks	330	10%	0%	\$2,757.4	\$928.6	\$1,436.1
4	Baskin Robbins	223	7%	100%	\$105.2	\$100.5	\$625.0
5	McDonald's	217	7%	89%	\$4,529.3	\$3,230.3	\$6,099.2
6	Burger King	94	3%	100%	\$375.1	\$362.4	na
7	Popeyes Louisiana Kitchen	94	3%	97%	\$44.1	\$0.0	\$62.0
8	Domino's Pizza	83	3%	92%	\$192.8	\$80.3	\$738.6
9	Chipotle Mexican Grill	73	2%	0%	\$475.6	na	\$460.7
10	Golden Krust Caribbean Bakery & Grill	66	2%	95%	Private company		

**Note:** Dunkin' Donuts and Baskin Robbins are opened by the same parent company, Dunkin' Brands Group

- **Systems/software:** According to Franchise Business Review, a leading market research firm in the franchise industry:<sup>6</sup> “Franchisors provide the technology platforms and materials operators need to handle tasks like invoicing, scheduling, marketing, and customer service.”<sup>7</sup>

The tradeoff for obtaining these services is that franchisees must accept a significant degree of franchisor control over their businesses. According to the IFA, “franchisees are required to operate their businesses according to the procedures and restrictions set forth by the franchisor in the franchisee agreement. These restrictions usually include the products or services which can be offered, pricing and geographic territory.<sup>8</sup> Franchisors also often specify:

- Operating hours.<sup>9</sup>
- Staffing levels.<sup>10</sup>
- Employee appearance.<sup>11</sup>
- Limited list of suppliers.<sup>12</sup>

Franchisors spell out these and other requirements in voluminous operating policies and procedures manuals that franchisors then incorporate by reference into their franchise agreements. Franchisors can unilaterally change these policies and procedures, thus imposing new requirements on franchisees. And franchisors usually have unfettered rights to inspect franchisees’ establishments to ensure that franchisees are complying with the franchisors’ rules.<sup>13</sup>

This high degree of franchisor control that franchisors require in exchange for the services and other advantages that franchisors provide clearly differentiate franchised businesses from independent businesses.

**Franchisors routinely provide financial incentives to franchisees to induce franchisees to take various actions and could do so to support improved scheduling and other improvements for workers.**

While franchisors exert a high degree of control over franchisees’ operations, as discussed above, that control is not absolute. In addition to their broad ability under typical franchise agreements to simply require franchisees to act, franchisors often provide financial incentives or assistance to franchisees in order to encourage certain practices. This is relevant to the City Council’s deliberations because it offers a model for franchisors to shoulder the responsibility for the types of improvements for workers we are discussing today.

Franchisors have significant flexibility in offering financial incentives to franchisees because franchisors often have more than one stream of revenue from franchisees. Of course, franchisors typically require franchisees to pay royalties as a percentage of franchisee sales. In addition, however, the following revenue streams are common in the fast food sector:

- **Sales of supplies.** Franchisors often either require or encourage franchisees to purchase food and/or other supplies from the franchisor.
- **Advertising funds.** Franchisors typically require franchisees to contribute a percentage of their sales toward advertising. While those advertising dollars often do not go to the franchisor but to an advertising cooperative, franchisors often have the ability to direct the flow of funds to or from these nominally independent bodies to influence franchisee behavior, as discussed below.
- **Rent.** McDonald's and to a lesser extent some other franchisors are franchisees' landlords, offering another flow of cash that franchisors may use to shape franchisee actions.

The extent to which franchisors use their control over these four franchisee cash flows – royalties, supply sales, advertising dollars and rent – to influence franchisee behavior can be partially assessed by reviewing the SEC filings of publicly traded franchisors along with other publicly available information. A review of those sources finds numerous examples of franchisors offering franchisees reductions, discounts and/or rebates on all of these cash flows to encourage franchisees to take various actions, such as opening new stores, renovating existing stores or investing in major equipment. Here are some significant examples:

- **McDonald's:** The leading fast food franchisor imposes rents on franchisees as high as 16 percent of sales<sup>14</sup> on top of 4 percent royalties and 4 percent in advertising contributions. The company has used these revenue streams to offer numerous financial incentives to franchisees in recent years. McDonald's assistance to franchisees has included:
  - o In 2015 offering U.S. franchisees reduced rent as an incentive to remodel their stores.<sup>15</sup> In 2010 McDonald's similarly offered "rent relief" to encourage European franchisees to "reimage" their stores.<sup>16</sup> These are only the most recent examples of such renovation assistance, as the company has repeatedly provided franchisees in the U.S.<sup>17</sup> and overseas<sup>18</sup> various incentives to renovate.
  - o Unspecified incentives to U.S. franchisees to upgrade their debit/credit card payment systems in 2011.<sup>19</sup>
  - o Providing a rebate in the early 2000s to subsidize kitchen upgrades.<sup>20</sup>
- **Burger King:** Burger King has adjusted its various revenue streams in recent years to offer franchisees incentives for various purposes in recent years, including:
  - o Providing franchisees with royalty reductions, reduced franchisee fees and other "capital contributions" in the last several years to promote store renovations.<sup>21</sup>
  - o Reducing advertising fund contributions to promote new equipment purchases.<sup>22</sup>
- **YUM! Brands:** The parent company of KFC, Pizza Hut and Taco Bell has provided franchisees with financial assistance in recent years including:
  - o Unspecified incentives for opening Pizza Hut and Taco Bell stores in rural areas of the U.S. in 2013.<sup>23</sup>
  - o Payments to Canadian and UK franchisees in exchange for opening new stores in 2012.<sup>24</sup>

- **Papa John's:** The number-four pizza chain has since at least 2010 offered various forms of financial aid to franchisees to promote various franchisor priorities, such as:
  - o Encouraging franchisees to open new stores by providing reduced royalties, waiving its franchise fee; providing free pizza ovens worth \$50,000 and offering credits against purchases from Papa John's in-house supply arm.<sup>25</sup>
  - o Attempting to prevent distressed franchisees from closing stores in the wake of the recession by providing royalty relief as well as "Food cost relief by lowering the commissary margin on certain commodities" sold by the company's supply arm.<sup>26</sup>
  - o Providing a rebate on royalty payments for franchisees that meet sales growth targets.<sup>27</sup>
  
- **Domino's:** The country's second-largest pizza chain also offers incentives to franchisees, including:
  - o Encouraging franchisees to buy supplies from Domino's by sharing half of the profits from its supply operation with franchisees who purchase from Domino's exclusively.<sup>28</sup>
  - o Lowering royalty rates as an incentive for franchisees to open new stores.<sup>29,29</sup>

Clearly, when franchisors want franchisees to take actions that franchisors cannot simply mandate, they use the several cash flow streams under their direct or indirect control to offer financial incentives to promote those initiatives.

Franchisors have created a system that puts pressure on franchisees' profit margins and provides a powerful incentive for franchisees to keep labor costs at a minimum. Therefore, now that the time has come to improve the scheduling practices of fast food establishments across the city, franchisors have the responsibility to help franchisees make these common-sense proposals a reality – and they possess the demonstrated mechanisms to do so.

### **Scheduling software is near ubiquitous among chained fast food restaurants.**

"Virtually every major retail and restaurant chain" relies on software to schedule employees, according to the *New York Times*. Scheduling software is a powerful tool that integrates data from a restaurant's historical sales records, its staff roster, the weather and other factors to generate a schedule. The software looks at the skill sets of different employees<sup>30</sup> to assign specific employees to specific shifts doing specific tasks on specific days and times.

These powerful programs help employers maximize profits by anticipating peak periods and scheduling more workers at those times. This keeps lines moving quickly and cash registers ringing up sales as fast as possible. Adding staff can be based on historical sales data showing a rise in traffic at a particular time of day, day of the week or week of the year ... or a look at the weather forecast showing that a cold snap is coming, and demand for hot drinks is going to rise.

The software also monitors sales against actual and budgeted labor costs in real time. It can allow managers to change the schedule during the week – adding or cutting employee hours for coming days if sales are running higher or lower than anticipated.<sup>31</sup> It can even call for managers to send people home early on a given day if sales are below the forecast<sup>32</sup> ... or when a given worker is about to run into overtime hours and thus cost the restaurant more per hour.<sup>33</sup>

In addition, these programs also often schedule employees in short time increments of as little as 15 minutes. For example, if the software sees that a restaurant's lunch rush typically slows down at 1:45, the algorithm may suggest cutting 15 minutes from the hours of a worker who used to work until 2 p.m.<sup>34</sup>

Scheduling just enough employees to meet demand and cutting back as soon as traffic slows saves employers significant money. Using scheduling software shaved four to five percent of labor costs at one franchised fast food chain, for example.<sup>35</sup> But since peak periods are typically short, and sales patterns and the weather are not stable, the impact on workers is not so positive. It means short shifts and unpredictable schedules. Fast food workers often get neither enough hours to earn a living wage nor enough stability to plan for childcare, taking classes – or even adding a second job.

Ng Ju San, an immigrant from Malaysia whose first job in the U.S. was at a midtown McDonald's, explained the system this way: "The manager would always look at point of sales, POS, system, a restaurant software, to make sure that no one got too many hours so as to not pay them too much. Sometimes we would have a lot of customers, but the POS would flag the manager, 'Hey, you are paying too much in salary.' He would say: 'Oh, you must go home' even though everyone was already working at their max because of the orders that were coming in. He would still send you home, because the algorithms would tell him that he has too high of an overhead and he must cut that down until he can improve profit. So you end up with even more orders but fewer people to work on them."<sup>36</sup>

I am going to tell you a bit about the scheduling systems at four of the biggest fast food chains in New York City and the world. These examples illustrate some of the abuses that scheduling software can facilitate. The examples also demonstrate that fast food companies have the power to enforce the protections that we are urging you to adopt in the legislation before you, simply by changing their software.

- **McDonald's:** McDonald's scheduling software projects sales and customer counts for each hour a restaurant is open. It decides the number of crew needed to meet that demand, and assigns particular employees to fill particular roles in the store, from grill to drive-thru to front counter.<sup>37</sup> As with many aspects of the McDonald's operation, using this software, now called E\*Labor, is technically not mandatory for franchisees. However, McDonald's evaluates franchisees based on their compliance with the overall "McDonald's System." The company has ways to encourage franchisees to "voluntarily" use its tools, such as refusing to renew a franchisee's franchise agreement or blocking franchisees' attempts to add more stores.

One Albany-area McDonald's worker, Jacquie Jordan, talked about the impact of software-generated schedules on her family: "The schedule goes up Sunday, but then it keeps changing, so you have to check it almost every day to make sure when you are supposed to come in," she told the Albany Times Union. Ms. Jordan said that the shifting schedule makes it difficult to budget, especially since, with a disabled husband, she is her family's only wage earner.<sup>38</sup>

- **Domino's;** Domino's requires all franchisees in the Continental U.S. to use its proprietary computer system, called PULSE. PULSE handles everything from tracking orders and deliveries to cash register functions, ordering supplies to labor scheduling.<sup>39</sup> In addition to scheduling staff, the software tracks employees' performance. For example, when workers enter a pizza order, a timer begins running, and PULSE tracks minute-by-minute everything that happens until the order is completed, including which employee performs each task as part of the order.<sup>40</sup>

The New York State Attorney General filed a suit in 2016 charging that PULSE's payroll function systematically under-calculated wages, leading to at least half a million dollars in underpaid wages at 10 franchised Domino's stores in New York City.<sup>41</sup>

- **Dunkin' Donuts:** Dunkin' Donuts requires franchisees to have a specific "Retail Technology System" with back-office functions including labor management,<sup>42</sup> and the Dunkin' Donuts Operations Manual refers to scheduling as part of that software.<sup>43</sup>

In 2013, Maria Fernandes, who worked at three different Northern New Jersey Dunkin' Donuts and sometimes closed a shop and opened it again a few hours, later died while sleeping in her car. She was overcome by gasoline fumes while napping between shifts.<sup>44</sup>

- **Subway:** The world's biggest fast food chain by unit count, Subway also requires U.S. franchisees to use a software package that includes labor scheduling. Subway requires franchisees to transmit employee time punches and schedules to the corporation.<sup>45</sup>

Subway stores have a recent record of breaking wage and hour laws. For the three years from October 2012 to October 2015, the federal Labor Department investigated more than 800 cases at Subway stores and required the company to pay more than \$2 million in back wages to over 6,000 employees.<sup>46</sup>

Fast food franchisors require or strongly encourage their franchisees to use scheduling software. This powerful tool allows operators to save money on labor costs by scheduling short, profitable shifts and sending workers home when the restaurant is not making enough profit. But the software could also be programmed to incorporate the protections you are considering in this legislation. We think that workers with stable schedules and enough hours to live on would actually help fast food employers, too. As an executive at scheduling software company Kronos observed, "There are a lot of studies showing if [employers] do a good job with their employees, they see improvements in less turnover and absenteeism, more profitability, customer satisfaction and revenue growth."<sup>47</sup>

## **Conclusion**

I would like to end my testimony on a more personal note. I am the daughter of a single mom who worked hard as a grocery store clerk. She was a member of a union and that allowed us to build a home – nothing lavish, not a lot of extras – but enough so I could go to college and eventually on to grad school.

And I have had the privilege of having a career – going on 18 years now – in the labor movement. In all that time, I have never been more inspired by the strength, dignity and courage of the fast food workers I have worked with over the last five years. They have lifted each other up, they have achieved incredible victories, they have faced the worse kind of retribution, and they have spoken truth to power, literally, in halls like this one.

These workers deserve a humane scheduling system, so they can not only be the productive employees they want to be, but so they can be the parents they want to be; the spouses and partners they want to be; the sisters, brothers, aunts, uncles, sons and daughters they want to be; and the civic, community and church leaders our city needs.

Thank you.

## Endnotes

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- <sup>9</sup> "What Is A Franchise?" presentation at IFA legal symposium, May 15-17, 2011, p. 31. [http://www.franchise.org/sites/default/files/ek-pdfs/html\\_page/BASICS-TRACK---What-Is-A-Franchise\\_0.pdf](http://www.franchise.org/sites/default/files/ek-pdfs/html_page/BASICS-TRACK---What-Is-A-Franchise_0.pdf)
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- <sup>23</sup> Q4 2012 Yum! Brands, Inc. Earnings Conference Call, Fair Disclosure Wire, February 5, 2013; Yum! Brands, Inc. at Raymond James Institutional Investors Conference, Fair Disclosure Wire, March 6, 2012.
- <sup>24</sup> "Pizza Hut expansion to create opportunities in Wales," Liverpool Daily Post, December 11, 2012; Robert Gibbens, "Pizza Hut to boost number of Quebec restaurants," Canwest News Service, April 10, 2012.
- <sup>25</sup> "Papa John's food service to continue franchise incentives in 2011," Franchise Plus, December 21, 2010; "Papa John's Announces 2014 Development Incentive Program," Papa John's, January 8, 2014. <http://ir.papajohns.com/releasedetail.cfm?ReleaseID=818031> "Papa John's Announces 2015 U.S. Development Incentive Program for New and Existing Franchisees," Business Wire, January 13, 2015. <http://www.businesswire.com/news/home/20150113005293/en/Papa-John%E2%80%99s-Announces-2015-U.S.-Development-Incentive#.VYXj-PiViko>
- <sup>26</sup> Papa John's SEC Form 10-K, FYE December 30, 2012, p. 7.
- <sup>27</sup> Papa John's SEC Form 10-K, FYE December 30, 2012, p. 7.
- <sup>28</sup> Domino's SEC Form 10-K, FYE December 30, 2014, p. 6.
- <sup>29</sup> Domino's SEC Form 10-K, FYE December 30, 2014, p. 4.
- <sup>30</sup> Steven Greenhouse, "A Part-Time Life, as Hours Shrink and Shift," New York Times, October 27, 2016. <http://www.nytimes.com/2012/10/28/business/a-part-time-life-as-hours-shrink-and-shift-for-american-workers.html>
- <sup>31</sup> Steve Coomes, "Operators manage labor costs with tech tools," Nation's Restaurant News, April 8, 2013. <http://nrr.com/technology/operators-manage-labor-costs-tech-tools>
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- <sup>42</sup> Dunkin' Donuts FDD 2016, Item 11, pp. 66, 68.
- <sup>43</sup> Dunkin' Donuts FDD 2016, Appendix IV, p. 12.
- <sup>44</sup> Rachel Swarns, "For a Worker With Little Time Between 3 Jobs, a Nap Has Fatal Consequences," New York Times, September 28, 2014 <http://www.nytimes.com/2014/09/29/nyregion/3-jobs-plenty-of-dreams-and-the-fatal-consequences-of-one-dangerous-decision.html>; and Joseph Lawler, "Democrats look to govern working hours," Washington Examiner, July 27, 2015. <http://www.washingtonexaminer.com/democrats-look-to-govern-working-hours/article/2568839>
- <sup>45</sup> Subway Franchise Disclosure Document 2016, Item 11, pp. 69-70.
- <sup>46</sup> "Subway, Labor Department sign agreement on wage compliance," Connecticut Post, August 2, 2016. <http://www.ctpost.com/business/article/Subway-Labor-Department-sign-agreement-on-wage-9061470.php>
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Hello my name is Edica Reece and I work at McDonalds.

I want to thank Committee Chair Miller and Committee Members for holding this hearing today.

I am a mother to my four-year-old Daughter. Without childcare it is extremely important that I have a schedule that allows me to plan my week so I can care for my daughter, take her to school and be there for her when she needs me.

Currently our shifts are posted every Sunday and are often changed during the week with less than a day's notice. If a shift is changed and I can't work it because I need to be with my daughter, I lose the money from that shift and worry that I'll get fewer hours next week.

Some weeks I get as few as 14 hours.

These bills will stop this from happening and make restaurants set schedules that work for their employees. It's only fair that workers have predictable shifts, enough hours to earn a decent income and are protected if they stand up for themselves.

Fast food work is hectic and stressful. Managers constantly put pressure on staff to work faster. The system needs to be changed so that workers get what they need from the job in return for working hard.

Our campaign isn't going anywhere. Fast food workers want these bills passed because they know they will make a difference. I ask that you support this package and stand up for the workers that serve New York.

Thank you.

Hello my name is Wilton Major and I work at a KFC Restaurant in East New York.

I want to thank Chairperson Miller and members of the committee for holding this hearing today.

I have worked for KFC for 26 years. Over this time I have seen sales go up but conditions get harder for workers. These bills will see that things start to go the right way.

I currently work 23 hours a week. After all the time I have worked, the company should treat me right. Workers deserve enough hours so they don't need a second job. Some of my colleagues only get 6 to 10 hours. This is not enough.

My schedule makes it hard to plan important things in my life. My mother has a heart condition and needs assistance in the morning. I also have a two year old niece that I help to look after. Workers need two weeks advance notice of their schedules so they can make sure they can be there for their family.

In my job I have often worked late shifts and then started early the next morning. Sometimes I would get as little as 4 hours sleep and do it 2 to 3 times a week. This is not healthy. Workers need a fair break in between their shifts.

To make sure things got the right way and stores are held accountable, it is important that workers have an organization that has their back and will stand up for them.

I strongly urge you to support these bills and vote to make a difference for fast food workers like me.

Thank you.

## STATEMENT

Good morning. My name is Pamela Majors. I live in Harlem and work as a shift supervisor at a KFC in Harlem.

Thank you Committee Chair Miller and the members of the committee for holding this hearing today.

I urge you to pass this scheduling legislation without delay. I have worked in the fast food industry for 20 years—most of that time at KFC.

As a shift supervisor and with so much time in the industry, I can tell you that the lack of laws or regulation around scheduling practices puts workers at the whim of their managers and it can be very hard for them to work and take care of their families.

In my store right now I have seen managers make scheduling changes at the last minute and cut workers' hours just based on their personal feelings about those workers and not, in my opinion, based on the workers' performance in their jobs.

This includes making changes to the schedule at the last minute and not even informing workers that their schedule has been changed, sending workers home when they show up for work and cutting workers' hours as a punitive measure.

This is completely unfair. That's why I am here today to stand up for the other workers in my store and in every store across the city and urge you to pass this scheduling legislation without delay.

I also urge you to pass the Fast-Food Worker Empowerment bill right away. We need an organization that will ensure that once this scheduling legislation is passed, cooks, cashiers and all workers in our stores know their rights. And we need to be able to fight together to improve issues we face in our neighborhoods like getting more affordable housing, police and criminal justice reform and

I don't have a bank account and so many other fast-food workers don't either. Passing this bill is the best way to ensure we can pool our contributions to this organization and fight to improve our lives.

Thank you.

Good morning. My name is Pamela Majors. I live in Harlem and work as a shift supervisor at a KFC in Harlem.

Thank you Committee Chair Miller and the members of the committee for holding this hearing today.

I urge you to pass this scheduling legislation without delay. I have worked in the fast food industry for 20 years—most of that time at KFC.

As a shift supervisor and with so much time in the industry, I can tell you that the lack of laws or regulation around scheduling practices puts workers at the whim of their managers and it can be very hard for them to work and take care of their families.

In my store right now I have seen managers make scheduling changes at the last minute and cut workers' hours just based on their personal feelings about those workers and not, in my opinion, based on the workers' performance in their jobs.

This includes making changes to the schedule at the last minute and not even informing workers that their schedule has been changed, sending workers home when they show up for work and cutting workers' hours as a punitive measure.

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I don't have a bank account and so many other fast-food workers don't either. Passing this bill is the best way to ensure we can pool our contributions to this organization and fight to improve our lives.

Thank you.

Good afternoon. My name is Jorel Ware. I live in the Bronx and work at McDonald's in Manhattan.

I want to thank Chairperson Miller and the members of the committee for holding this hearing today.

I have been in the Fight for \$15 since the first strike in 2012 and getting on the path to \$15 has made a big difference in my life and the lives of so many fast-food workers.

But even as we won \$15 for all workers in the state, with the support of many of you here today, we're still fighting for respect and dignity, stable jobs and a better life.

We realized we need to be able to form our own non-profit organization that will help us educate our coworkers about their rights on the job and fight for what we need in our neighborhoods, like more affordable housing, police and criminal justice reform, immigrant rights and more access to affordable higher education.

You can lead the way in the country by passing this legislation that will make it easy for us to support our non-profit organization with contributions deducted directly from our paycheck. This is especially important for the many workers, like me, who don't have a bank account and won't be able to easily make contributions on a regular basis without this bill.

I need this organization—we all do. And this is the best way for us to all contribute a little but make it add up to a lot.

Like Hector said, we are 50,000 mostly minimum wage workers in this city who want to work hard and want to take care of our families and contribute to our community.

Some people might say, why would we pay our own money when we make so little to begin with, but to me, I will feel pride seeing an organization that I myself and my coworkers build with our own sweat and sacrifice.

We are also here today to call for fair schedules.

Having stable schedules and access to more hours of work will enable us to afford the basics and that money goes right back into our neighborhoods and strengthens this city.

Thank you.

Shortened:

Hola. Mi nombre es Mercedes Ramirez. Vivo en el Bronx y trabajo en McDonald's en Midtown Manhattan desde 2008.

En los últimos meses he visto que mis horas se están cortando cada semana. Hoy solo tengo entre 19 y 25 horas por semana. Hay semanas cuando gano menos de \$170 dólares en mi cheque. No es suficiente para vivir. Les pido a ustedes aprobar esta legislación lo más pronto posible.

Gracias.

Hi. My name is Mercedes Ramirez. I live in the Bronx and work at McDonald's in Midtown Manhattan since 2008.

I want to thank Council Member Miller and the other committee members for giving me this opportunity to share my story.

In recent months I have seen that my hours are being cut every week. 2 years ago I normally had 37 or 38 hours of work per week. Last year with a new owner, my hours were cut to 33 per week.

And in the last few months I only have between 19 and 25 hours a week. There are weeks when I earn less than \$ 170 in my check.

It is not enough to live and for others with a family, I do not know how they can buy food for the children and pay the rent. I live with my niece and her daughter who is 11 years old and it is difficult to pay the expenses.

Sometimes when there are no customers in my store, the manager tells us that we have to leave early.

We need laws that protect us and protect our schedules. And we need an organization that can educate everyone about these laws and help us in our communities. We have to fight to make our neighborhoods better and have affordable housing and good public schools for my great niece and all the children in the city.

I urge you to adopt this legislation as soon as possible.

Thank you.

Hola. Mi nombre es Mercedes Ramirez. Vivo en el Bronx y trabajo en McDonald's en Midtown Manhattan desde 2008.

Quiero agradecerle al Concejal Miller y los otros miembros de comité por darme esta oportunidad de compartir mi historia.

En los últimos meses he visto que mis horas se están cortando cada semana. Hace 2 años tuve normalmente 37 o 38 horas de trabajo por semana. El año pasado con un nuevo dueño, se cortaron mis horas a 33 por semana.

Y en los últimos meses solo tengo entre 19 y 25 horas por semana. Hay semanas cuando gano menos de \$170 dólares en mi cheque.

No es suficiente para vivir y por otros con una familia, no sé cómo pueden comprar comida para los hijos y pagar la renta. Yo vivo con mi sobrina y su hija que tiene 11 años y es difícil pagar los gastos.

A veces cuando no hay clientes en mi tienda, la manager nos dicen que tenemos que irnos temprano.

Necesitamos leyes que nos protegen y protegen nuestros horarios. Y necesitamos una organización que puede educar a todos sobre estas leyes y nos ayudan en nuestras comunidades. Tenemos que luchar para hacer mejor nuestros barrios y tener viviendas asequibles y buenas escuelas públicas para mi gran sobrina y todos los niños en la ciudad.

Les pido a ustedes aprobar esta legislación lo más pronto posible.

Gracias.

ENGLISH

Good morning, my name is Rosa Rivera. I live in Upper Manhattan and I've been working at McDonalds since 2000.

I want to thank this Council Committee for listening to our stories about how our scheduling issues affect our lives.

The biggest problem at my job is how arbitrary our bosses are when it comes to how many days we are asked to work, or how many hours they give us. A couple of months ago, I saw my schedule reduced from four days a week to only two. The boss said it was a mistake, but she would not fix it. I was desperate, I didn't know how I'd be able to support my daughter and my grandkids who live with me.

Lately, I am once again working four days a week. But my situation remains uncertain. Often, we are sent home early, when things slow down. If there are few customers, we should not be made to pay for that, since when there is a lot of work and we have to stay extra hours, it is expected that we do it gladly.

My son's girlfriend also works at a McDonald's. She is in school, and depends on the hours that she works to cover her studies and her expenses. But often, after she's been asked to come in to open at 6 am, she is sent home before 11. That way, she works less than 20 hours a week.

It's not fair that they tell us that they need us one moment, but not another. We cannot live like that. I hope that you the members of this Committee will take this into account and approve these bills to improve our scheduling. The families that depend on our jobs will thank you for it.

Thank you.

Shortened Version English:

Good morning, my name is Rosa Rivera. I live in Upper Manhattan and I've been working at McDonalds since 2000.

I want to thank this Council Committee for listening to our stories about how our scheduling issues affect our lives.

It's not fair that they tell us that they need us one moment, but not another. We cannot live like that. I hope that you the members of this Committee will take this into account and approve these bills to improve our scheduling. The families that depend on our jobs will thank you for it.

Testimony Rosa Rivera

Buenos días, mi nombre es Rosa Rivera. Vivo en el Alto Manhattan y trabajo en McDonald's desde el año 2000.

Quiero darle las gracias al Comité del Consejo por escuchar nuestras historias sobre cómo nuestros problemas con los horarios afectan nuestras vidas.

El problema principal en mi trabajo es lo arbitrarios que son los jefes cuando tiene que ver con cuántos días nos piden que trabajemos, o cuántas horas nos dan. Hace par de meses, me habían rebajado mi horario de cuatro días por semana a sólo dos días por semana. La jefa decía que era por error, pero no lo corregía. Estaba desesperada, no sabía cómo iba a mantener a mi hija y a mis nietos que viven conmigo.

Ultimamente, me han vuelto a poner cuatro días a la semana. Pero como quiera la situación no es segura. Muchas veces, nos mandan temprano a la casa, cuando se pone lento. Si no hay clientes, no debemos de nosotros pagar, porque cuando hay mucho trabajo y hay que quedarse horas extras se espera que uno lo haga con gusto.

La novia de mi hijo también trabaja en un McDonalds. Ella está estudiando, y depende de sus horas para pagar sus estudios y sus gastos. Pero muchas veces, después de pedirle que abra a las 6 de la mañana, la mandan a la casa antes de las 11. Así no puede llegar ni a 20 horas en la semana.

No es justo que nos digan que nos necesitan un momento, pero en otro no. Sin aviso. Así no se puede vivir. Yo espero que ustedes los miembros del Comité tomen esto en cuenta y que aprueben estas leyes para mejorar nuestros horarios. Las familias que dependen de nuestros trabajos se lo agradecerán.

Gracias.

Testimony Rosa Rivera

Buenos días, mi nombre es Rosa Rivera. Vivo en el Alto Manhattan y trabajo en McDonald's desde el año 2000.

El problema principal en mi trabajo es lo arbitrarios que son los jefes cuando tiene que ver con cuántos días nos piden que trabajemos, o cuántas horas nos dan.

Muchas veces, nos mandan temprano a la casa, cuando se pone lento. Si no hay clientes, no debemos de nosotros pagar.

No es justo que nos digan que no nos necesitan a último momento. Sin aviso. Así no se puede vivir. Yo espero que ustedes los miembros del Comité tomen esto en cuenta y que aprueben estas leyes para mejorar nuestros horarios.

Gracias.

Shortened:

Hello my name is Janice Brooks, I live in Brooklyn and have worked at Subway for over 9 years.

I want to thank Committee Chair Miller and members of the committee for holding this hearing today. The bills before you are important to fast-food workers like me and will make a real difference in our lives.

When I make plans outside of work, short notice of shift changes means I either have to sacrifice my own life or risk losing my job if I don't comply with the new schedule.

The Fast Food Worker Empowerment Bill will help all fast food workers stand up for their rights. By making it easier for workers to make contributions to a non-profit, we can build our own organization that educates people about their rights.

I urge you to pass these bills as soon as possible so that thousands of workers, including me, will have better jobs and better lives.

Thank you.

Hello my name is Janice Brooks, I live in Brooklyn and have worked at Subway for over 9 years.

I want to thank Committee Chair Miller and members of the committee for holding this hearing today. The bills before you are important to fast-food workers like me and will make a real difference in our lives.

The scheduling practices in the fast-food industry often leave workers in a lose-lose situation.

When I make plans outside of work, short notice of shift changes means I either have to sacrifice my own life or risk losing my job if I don't comply with the new schedule.

Similarly, when stores schedule workers to close late at night and open early the next morning, workers are faced with either being exhausted and missing time with their family, or potentially being fired if they say no.

At a previous store location I was frequently scheduled to close after 10:30pm and open the next day at 7:00am. After catching late night and early morning transport, this left me with fewer than 5 hours sleep a night.

Everybody has a life to live.

An important part of these bills is that they protect workers against retaliation if they do not consent to work additional shifts that are not included in their two week schedule and if they say no to "clopening" shifts. We should all be able to stand up for ourselves without being punished.

The Fast Food Worker Empowerment Bill will help all fast food workers stand up for their rights. By making it easier for workers to make contributions to a non-profit, we can build our own organization that educates people about their rights and fights for issues that affect our communities.

I urge you to pass these bills as soon as possible so that thousands of workers, including me, will have better jobs and better lives.

Thank you.

ENGLISH

Good morning, my name is José Carrillo. I live in Manhattan and work at McDonalds.

I'm happy to come before this Committee today to tell you about the difficult situation for me and many of my coworkers who work in fast food.

I'm 83 years old, but I keep working because if I don't work, I cannot pay for my expenses. Also, I send more than \$450 to Peru monthly, and my family there depends on what I can send them. For my expenses here, I depend on working a certain number of hours a week. Recently, I was able to get a few more hours. Instead of two days a week, I work three. But that is only 15 hours a week. And often, the boss sends me home early. When this happens, I don't get paid for the time that had been scheduled. And each time this happens, which is often, it means that that month it will be hard for me to cover basic expenses, like rent.

I ask you, the members of the Committee, to approve these bills to improve our scheduling. Right now, we are at the mercy of whatever the bosses say, without recourse. If you approve these bills, we will have a way to defend ourselves.

I also want to speak in favor of one of the bills, which will help create an organization that will defend our rights. If we have a way to make contributions to form this organization, it will help us immensely in our fight for dignity. Thank you.

Jose Carrillo testimony

Buenos días, mi nombre es Jose Carrillo. Vivo en Manhattan y trabajo en McDonalds.

Me alegro poder venir frente a este Comité para decirles de la difícil situación para mí y para muchos de mis compañeros y compañeras que trabajan en comida rápida.

Tengo 83 años de edad, pero sigo trabajando porque si no trabajo, no me alcanza para pagar mis gastos. Además mando más de \$450 dolares mensualmente a Perú, y mi familia allá depende de lo que les mando. Para mis gastos de acá, dependo de trabajar cierto número de horas. Recientemente, me aumentaron las horas. En vez de dos días a la semana, trabajo tres. Pero esto es sólo 15 horas semanalmente, y muchas veces, el jefe me manda a la casa temprano. Cuando esto pasa, no me pagan por el tiempo que tenía programado. Y cada vez que pasa, que es a menudo, significa que ese mes me será difícil de pagar mis gastos básicos, como mi renta.

Yo les pido a ustedes en el Comité que aprueben estos proyectos de ley para mejorar nuestros horarios. Actualmente, estamos a la merced de lo que digan los jefes, sin ningún recurso. Si aprueban estas leyes, tendremos como defendernos.

Además quiero hablar a favor del proyecto de ley que nos ayudará a crear una organización que defenderá nuestros derechos. Si tenemos la forma de contribuir para que se forme esta organización, nos ayudaría muchísimo en nuestra lucha por dignidad. Gracias.

Jose Carrillo testimony

Buenos días, mi nombre es Jose Carrillo. Vivo en Manhattan y trabajo en McDonalds.

Tengo 83 años de edad, pero sigo trabajando porque si no trabajo, no me alcanza para pagar mis gastos. Pero esto es sólo 15 horas semanalmente, y muchas veces, el jefe me manda a la casa temprano. Cuando esto pasa, no me pagan por el tiempo que tenía programado y ese mes me es difícil pagar mis gastos básicos, como mi renta.

Yo les pido a ustedes en el Comité que aprueben estos proyectos de ley para mejorar nuestros horarios.

Además quiero hablar a favor del proyecto de ley que nos ayudará a crear una organización que defenderá nuestros derechos. Si tenemos la forma de contribuir para que se forme esta organización, nos ayudaría muchísimo en nuestra lucha por dignidad. Gracias.

Hello my name is Elexus El, I live in East New York and I have worked at KFC in Brooklyn for the past year and a half.

Thank you Committee Chair Miller and the members of the committee for holding this hearing today.

I am here today to urge you to pass the Fair Work Week bills for fast-food workers like me.

I work the night shift 4 nights a week. I only get a total of 17-22 hours a week and it's not enough to get by. I am helping to support my mom and my five younger siblings who all live at home. My mom isn't working right now because she just had a baby.

I am also expecting myself and my baby is due in July.

With my family counting on me, I keep asking the manager at my store for more hours but she won't give them to me. Instead as shifts become available she hires new part-time workers.

My family is struggling to get by and pay all of our bills. With so few hours my paycheck isn't enough and we rely on food stamps just to get food on the table for everyone.

I urge you to pass these scheduling bills so that I can support my family and so many other workers can too.

I also urge you to pass the Fast Food Worker Empowerment Bill that will make it possible for me and other fast-food workers to form our own organization and have a simple and reliable way to support it. I don't have my own bank account and making regular contributions to an organization that will support me and my community is very important.

Pass these bills as soon as possible so that thousands of workers, including me, will have better jobs and better lives.

Thank you.

Shortened version:

Hello my name is Elexus El, I live in East New York and I have worked at KFC in Brooklyn for the past year and a half.

Thank you Committee Chair Miller and the members of the committee for holding this hearing today.

I work the night shift 4 nights a week. I only get a total of 17-22 hours a week and it's not enough to get by. I am helping to support my mom and my five younger siblings who all live at home. My mom isn't working right now because she just had a baby.

I am also expecting myself and my baby is due in July.

With my family counting on me, I keep asking the manager at my store for more hours but she won't give them to me. Instead as shifts become available she hires new part-time workers.

I urge you to pass these scheduling bills so that I can support my family and so many other workers can too.

**Frances Martinez**  
**917-612-1243**  
**francism72348@gmail.com**

- Hello, My name is Frances Martinez
- I am a \_\_\_\_\_ resident and an office cleaner.
- Thank you city council members for listening to the community today.
- I am here today to urge you to pass the Fair Work Week bills.
- I have been standing with Fast Food workers in their fight for good jobs.
- When we started this fight, fast food workers were struggling to survive on the very basics.
- We fought hard to win higher minimum wages for these workers
- And now it's your turn to help us raise the floor in New York, to help us make sure people are not only able to pay the bills, but are able to live and fully take care of themselves and their families.
- Fair scheduling will help fast food workers take care of their children, better support their families and contribute more to our communities.
- Forming their own organization will allow fast food workers to organize themselves to enforce the important improvements they have already won and fight for change in the community like affordable housing.
- All of this will make New York stronger.
- When we raise the bottom, we raise us all.
- As a union member, I have seen the difference it makes when low wage workers gain rights on the job.
- I have seen the way it increases respect and makes life better for these workers, for their children and for our communities.
- Fast food workers live in every neighborhood in New York City, so you have an opportunity to support all of us.
- I ask you to make the right decision and vote to approve the Fair Work Week bills and the Fast Food Worker Empowerment Bill.

Shortened:

- Hello, My name is Frances Martinez
- I am a \_\_\_\_\_ resident and an office cleaner.
- Thank you city council members for listening to the community today.
- I am here today to urge you to pass the Fair Work Week bills.
- I have been standing with Fast Food workers in their fight for good jobs.
- We fought hard to win higher minimum wages for these workers
- And now it's your turn to help us raise the floor in New York, to help us make sure people are not only able to pay the bills, but are able to live and fully take care of themselves and their families.
- When we raise the bottom, we raise us all.
- As a union member, I have seen the difference it makes when low wage workers gain rights on the job.
- I ask you to make the right decision and vote to approve the Fair Work Week bills and the Fast Food Worker Empowerment Bill.

Juliana Peters  
917-805-1656  
JULIANAPETERS70@GMAIL.COM

NYC Council

- Hello, My name is Juliana Peters
- I am a Queens resident and a cleaner at 555 West 57t here in Manhattan
- Thank you to the committee members for taking the time to hear us out today.
- I want to urge you to pass to urge you to pass the Fair Work Week bills for fast-food workers.
- The Fair Work Week bills will provide thousands of fast-food workers with more reliable schedules that will enable them to take care of their kids, continue their education, work other jobs and plans their lives.
- Passing these bills will not only strengthen workers across the city, but their families and our communities as well.
- As a union member, I know the difference it makes in a person's life to have a fair schedule.
- I know you are also looking to vote on a bill that will make it possible for fast-food workers to form our own organization.
- Again I know the safety that comes when people come together, and I urge you to pass bot the Fair Work Week bills and the Fast Food Worker Empowerment Bill.
- I have stood with Fast Food Workers since they began organizing more than 4 years ago.
- I know that these fast food workers deserve everything we have fought to win.
- They are hard workers and have found ways to survive on wages and under conditions that most of us could never bear.
- But I have also supported their national days of action and their strikes because I know that helping to raise fast food workers will help raise the bar for all New Yorkers.
- As elected officials that serve all new Yorkers, I know you will do what's right for fast food workers and for all New Yorkers by passing the Fair Work Week bills

Shortened version:

- Hello, My name is Juliana Peters
- I am a Queens resident and a cleaner at 555 West 57t here in Manhattan
- Thank you to the committee members for taking the time to hear us out today.
- I want to urge you to pass to urge you to pass the Fair Work Week bills for fast-food workers.
- As a union member, I know the difference it makes in a person's life to have a fair schedule.
- I know the safety that comes when people come together, and I urge you to pass both the Fair Work Week bills and the Fast Food Worker Empowerment Bill.
- I know that these fast food workers deserve everything we have fought to win.
- They are hard workers and have found ways to survive on wages and under conditions that most of us could never bear.
- As elected officials that serve all new Yorkers, I know you will do what's right for fast food workers and for all New Yorkers by passing the Fair Work Week bills

My name is Ty-Shawn Nunez, I live in Brooklyn and have work at McDonalds for 15 months,

I want to thank the Chairperson Miller and Committee member for holding this hearing today. The Fair Work Week and Fast Food Worker Empowerment bills are important to workers like me and will make a real improvement in our lives.

Working in the fast-food industry can make you feel like your life is on an edge.

My store is open 24 hours a day and schedules are released only one week in advance. The short notice and range in shift times means it is difficult to plan and hard to build a rhythm in your life. I am responsible for caring for my family and I often struggle to find the time to take my grandma to the doctors. Changing schedules are bad for my own health as well, as I find it hard to sleep when I am moved between late night, morning and day shifts.

The hours that I do work are not enough to build a stable income. I regularly work between 22 and 29 hours a week. I used to have a second job, but it was hard to maintain with an unpredictable schedule from the first.

The Fair Work Week bills would make positive changes. Two weeks advance notice of my shifts would make it easier to plan my life and make commitments with my family. If I had additional hours I would earn a better income and not need to juggle my life as much.

Fast food workers are serious about improving our lives. The Fast Food Worker Empowerment Bill will help us build an organization than can fight for changes on the job and in our communities. Workers have shown they are committed to our cause by showing up here today and at actions for the past 5 years - we just need to make it easier for deductions to be made to help support an organization.

I urge you to pass these bills without delay so that thousands of workers, including me, can start improving our lives through better jobs and our own collective voice.

Thank you.

Shortened Version

My name is Ty-Shawn Nunez, I live in Brooklyn and have work at McDonalds for 15 months,

I want to thank the Chairperson Miller and Committee member for holding this hearing today. The Fair Work Week and Fast Food Worker Empowerment bills are important to workers like me and will make a real improvement in our lives.

Working in the fast-food industry can make you feel like your life is on an edge.

Fast food workers are serious about improving our lives. The Fast Food Worker Empowerment Bill will help us build an organization than can fight for changes on the job and in our communities. Workers have shown they are committed to our cause by showing up here today and at actions for the past 5 years - we just need to make it easier for deductions to be made to help support an organization.

I urge you to pass these bills without delay so that thousands of workers, including me, can start improving our lives through better jobs and our own collective voice.

Thank you.

Dear Members of the Labor Committee,

My name is Terrel Branche. I am a student living in Brooklyn and I work at McDonald's in Coney Island.

I urge the City Council to pass the Fair Work Week bills so that my coworkers and I can get the hours we need, plan our lives and take care of our families.

I also urge you to pass the Fast-Food Worker Empowerment Bill so that we can form an organization that will help us educate our coworkers about their rights on the job and advocate for the changes we need in our communities. This law will help us bring together our resources so that we can fight for ourselves and our families.

New York can lead the way in improving the jobs and lives of fast-food workers. Please pass these bills without delay!

Thank you.

FOR THE RECORD

Dear Members of the Labor Committee,

My name is Terrel Branche. I am a student living in Brooklyn and I work at McDonald's in Coney Island.

I don't get enough hours every week at McDonald's. I only get four hours, which feels like nothing. I pay bills and my paycheck is not enough to help out my mom who is not well and is not able to work. My older brother and I are supporting her. My brother helps cover the rent and I try to help cover everything else. I'd like to get at least 15 hours of work a week but when I ask my manager, she doesn't give them to me. Instead she brings in new part-time workers who are getting hours that I want to work.

This is unfair.

I urge the City Council to pass the Fair Work Week bills so that my coworkers and I can get the hours we need, plan our lives and take care of our families.

I also urge you to pass the Fast-Food Worker Empowerment Bill so that we can form an organization that will help us educate our coworkers about their rights on the job and advocate for the changes we need in our communities. This law will help us bring together our resources so that we can fight for ourselves and our families.

New York can lead the way in improving the jobs and lives of fast-food workers. Please pass these bills without delay!

Thank you.

## FOR THE RECORD

Testimony for Vianny Vargas

Good morning, my name is Vianny Vargas. I live in Washington Heights and have worked at a Burger King in the neighborhood for about a year.

I want to thank this Council Committee for taking the time to listen to me today so I can share my story about how scheduling issues at my workplace negatively affect my life.

At the beginning of this year, I started taking GED classes at night to improve my life. Before that, I had been working five days a week, but with my school schedule, I had to cut my schedule to four days, 28 hours a week.

Before I started school, I would often get called at the last minute to come in when someone else was out. No matter how much I had been working, I always said yes, because my husband earns very little as a barber and we need all the income we can get to cover our expenses. This meant that I was often working long hours back to back, closing one night and opening the next morning.

Now that I am in school, I can only come in Friday through Monday. But my boss always schedules me to close the store on Sunday nights, close to midnight, and to be back Monday morning to open. By the time I get home and get cleaned up, it's late and I rarely get enough sleep. This means I don't always make it to work on time and it makes my boss angry. I've told him that it would be better for me to start a couple of hours later, but he refuses and tells me he has no one else who can do it.

I am trying to make things better for me and my family, but I feel trapped by the scheduling demands made on me. I urge this Committee, and the City Council, to approve the bills that would improve scheduling issues for me and my co-workers.

I also urge you to support the bill that would help us set up an organization so we can deal with issues that matter to us at work and in our communities. That way we can know our rights at work, and advocate for the things that matter to us most, such as police reform, affordable housing and immigration reform.

Thank you.

Shortened version:

Testimony for Vianny Vargas

Good morning, my name is Vianny Vargas. I live in Washington Heights and have worked at a Burger King in the neighborhood for about a year.

I want to thank this Council Committee for taking the time to listen to me today so I can share my story about how scheduling issues at my workplace negatively affect my life.

At the beginning of this year, I started taking GED classes at night to improve my life.

Now that I am in school, I can only come in Friday through Monday. But my boss always schedules me to close the store on Sunday nights, close to midnight, and to be back Monday morning to open. By the time I get home and get cleaned up, it's late and I rarely get enough sleep. This means I don't always make it to work on time and it makes my boss angry. I've told him that it would be better for me to start a couple of hours later, but he refuses and tells me he has no one else who can do it.

I am trying to make things better for me and my family, but I feel trapped by the scheduling demands made on me. I urge this Committee, and the City Council, to approve the bills that would improve scheduling issues for me and my co-workers.

ENGLISH

Good morning, my name is José Carrillo. I live in Manhattan and work at McDonalds.

I'm happy to come before this Committee today to tell you about the difficult situation for me and many of my coworkers who work in fast food.

I'm 83 years old, but I keep working because if I don't work, I cannot pay for my expenses. Also, I send more than \$450 to Peru monthly, and my family there depends on what I can send them. For my expenses here, I depend on working a certain number of hours a week. Recently, I was able to get a few more hours. Instead of two days a week, I work three. But that is only 15 hours a week. And often, the boss sends me home early. When this happens, I don't get paid for the time that had been scheduled. And each time this happens, which is often, it means that that month it will be hard for me to cover basic expenses, like rent.

I ask you, the members of the Committee, to approve these bills to improve our scheduling. Right now, we are at the mercy of whatever the bosses say, without recourse. If you approve these bills, we will have a way to defend ourselves.

I also want to speak in favor of one of the bills, which will help create an organization that will defend our rights. If we have a way to make contributions to form this organization, it will help us immensely in our fight for dignity. Thank you.

CONFIDENTIAL

Jose Carrillo testimony

Buenos días, mi nombre es Jose Carrillo. Vivo en Manhattan y trabajo en McDonalds.

Me alegro poder venir frente a este Comité para decirles de la difícil situación para mí y para muchos de mis compañeros y compañeras que trabajan en comida rápida.

Tengo 83 años de edad, pero sigo trabajando porque si no trabajo, no me alcanza para pagar mis gastos. Además mando más de \$450 dolares mensualmente a Perú, y mi familia allá depende de lo que les mando. Para mis gastos de acá, dependo de trabajar cierto número de horas. Recientemente, me aumentaron las horas. En vez de dos días a la semana, trabajo tres. Pero esto es sólo 15 horas semanalmente, y muchas veces, el jefe me manda a la casa temprano. Cuando esto pasa, no me pagan por el tiempo que tenía programado. Y cada vez que pasa, que es a menudo, significa que ese mes me será difícil de pagar mis gastos básicos, como mi renta.

Yo les pido a ustedes en el Comité que aprueben estos proyectos de ley para mejorar nuestros horarios. Actualmente, estamos a la merced de lo que digan los jefes, sin ningún recurso. Si aprueban estas leyes, tendremos como defendernos.

Además quiero hablar a favor del proyecto de ley que nos ayudará a crear una organización que defenderá nuestros derechos. Si tenemos la forma de contribuir para que se forme esta organización, nos ayudaría muchísimo en nuestra lucha por dignidad. Gracias.

Jose Carrillo testimony

Buenos días, mi nombre es Jose Carrillo. Vivo en Manhattan y trabajo en McDonalds.

Tengo 83 años de edad, pero sigo trabajando porque si no trabajo, no me alcanza para pagar mis gastos. Pero esto es sólo 15 horas semanalmente, y muchas veces, el jefe me manda a la casa temprano. Cuando esto pasa, no me pagan por el tiempo que tenía programado y ese mes me es difícil pagar mis gastos básicos, como mi renta.

Yo les pido a ustedes en el Comité que aprueben estos proyectos de ley para mejorar nuestros horarios.

Además quiero hablar a favor del proyecto de ley que nos ayudará a crear una organización que defenderá nuestros derechos. Si tenemos la forma de contribuir para que se forme esta organización, nos ayudaría muchísimo en nuestra lucha por dignidad. Gracias.

Shortened:

FOR THE COMMITTEE

Testimonio de Edwin Cabrera

Buenos días, mi nombre es Edwin Cabrera. Vivo en Washington Heights y trabajo en Domino's desde hace 10 años como conductor.

Quiero darles las gracias a este Comité por escucharme a mí y a mis compañeros sobre los problemas graves que tenemos con nuestros horarios.

Antes trabajaba seis días a la semana, pero ahora trabajo unas 32 horas a la semana. Como mi esposa y mis dos niños dependen de lo que yo gano, cualquier rebaja nos afecta. También nos quitan horas y cambian nuestro horario sin aviso.

Ese descontrol me causa muchos problemas. Le pido a los Consejales en este Comité que aprueben las leyes para mejorar nuestros horarios. Poder contar con una semana de trabajo sin cambios haría un cambio muy saludable a la calidad de nuestras vidas. Gracias.

ENGLISH

Good morning, my name is Edwin Cabrera. I live in Washington Heights and have worked at Domino's for 10 years as a driver.

I want to thank this Committee for listening to me and my co-workers about the serious problems we have with our scheduling.

Before, I used to work six days a week. But since the beginning of this year, we've all been cut by a day. That means now I work about 32 hours a week. Since my wife and two kids depend on what I earn, any reduction affects us.

But that's not the worst of it. Almost the whole time I've been there, they take hours from us and disrespect us, changing our schedule with no warning. That confuses people, and there are times that some people show up at the wrong time. The boss says, you should have looked at the schedule, but if you have not been at work when the changes are made, you have no way of knowing, unless you go into work just to look at the schedule. We are never told when there are changes, and sometimes we can see where one hour was written in and then was crossed out and changed.

We are also not told at what time we are leaving work. If the store is not selling enough, he tells us to go home. Sometimes I'm sent home before I've worked four hours in a shift.

Sometimes, it's the opposite. If someone is out, I'm asked to work 12 or 13 hours in a shift. Since I am a driver, I have to be careful, and when I've been working a lot of hours and am tired, I run the risk of getting in an accident.

That lack of control over my time and my life cause me lots of problems. If the kids have an appointment, or my wife, they cannot count on me. We often have to change plans at the last minute. And not knowing how many hours I will work in a week greatly affects our budget at home.

I ask the Council members in this Committee to approve these laws to improve our schedules. To be able to count on a week of work without changes would make a very healthy change in the quality of our lives.

Thank you.

## Testimony Edwin Cabrera

Buenos días, mi nombre es Edwin Cabrera. Vivo en Washington Heights y trabajo en Domino's desde hace 10 años como conductor.

Quiero darles las gracias a este Comité por escucharme a mí y a mis compañeros sobre los problemas graves que tenemos con nuestros horarios.

Antes trabajaba seis días a la semana, pero desde que empezó este año, nos han quitado a todos un día, así que ahora trabajo unas 32 horas a la semana. Como mi esposa y mis dos niños dependen de lo que yo gano, cualquier rebaja nos afecta.

Pero eso no es lo peor. Casi todo el tiempo que he estado ahí, nos quitan horas y nos faltan el respeto, cambiando nuestro horario sin aviso. Eso confunde a la gente, y hay veces que algunos se presentan a la hora que no es. El jefe dice, debiste de mirar el horario, pero si no has entrado cuando lo cambiaron, no tienes forma de saber, a menos que entres exclusivamente para mirar el horario. Nunca nos avisa si hay cambios, y a veces podemos ver donde escribió una hora y después la tachó.

Además no nos avisa cual va a ser la hora de salir. Si el negocio no está vendiendo mucho, nos dice váyanse a la casa. A veces me sueltan antes que haya trabajado cuatro horas.

A veces el caso es el opuesto. Si falta alguien, me exigen que trabaje 12 o 13 horas seguidas. Trabajando de conductor, tengo que andar con precaución, y cuando llevo muchas horas, y me canso, estoy expuesto a accidentarme.

Ese descontrol me causa muchos problemas. Si los niños tienen una cita, o mi esposa, no pueden contar conmigo. Muchas veces tenemos que cambiar planes a última hora. Y no saber cuantas horas voy a trabajar en una semana afecta mucho la economía del hogar.

Le pido a los Consejales en este Comité que aprueben las leyes para mejorar nuestros horarios. Poder contar con una semana de trabajo sin cambios haría un cambio muy saludable a la calidad de nuestras vidas. Gracias.

Norma Villalona testimony

Buenos días, mi nombre es Norma Villalona. Vivo en Harlem y trabajo en Wendy's .

Doy gracias a este Comité del Consejo por escucharme hoy. En mi casa, yo soy que se gana el pan, no sólo para mí, sino para mi hija, que actualmente no está trabajando, y para mis dos nietas, de tres y de cinco años de edad. Cuando no puedo depender de mi horario, no puedo depender del dinero que me va a entrar. Y eso significa sufrimiento para mi familia.

Actualmente, trabajo cinco días a la semana, que es más que otros. Se supone que en total trabaje unas 30 horas a la semana, pero últimamente, me han recortado mucho las horas sin darme una razón. Si estoy programada para entrar a las 5:45 y salir a las 12, muchas veces ya a las 10 me dicen que me vaya a la casa.

Esas dos horas, cuando me las quitan una y otra vez, nos hacen mucha falta a mí y a mis niñas. Hay veces que tengo que coger dinero prestado para poder pagar la renta. Eso quiere decir que no hay forma de salir adelante, ni de tener espacio para manejar cualquier emergencia que se presente. La incertidumbre hace nuestras vidas muy difíciles.

Yo les pido que apoyen a mi familia y a muchas otras como la nuestra, y que aprueben los proyectos de ley que mejorarían nuestros horarios. Es una forma importante de tener una vida estable, que todos nos lo merecemos. Muchas gracias.

Shortened:

Norma Villalona testimony

Buenos días, mi nombre es Norma Villalona. Vivo en Harlem y trabajo en Wendy's .

Doy gracias a este Comité del Consejo por escucharme hoy. En mi casa, yo soy quien se gana el pan, no sólo para mí, sino para mi hija, y para mis dos nietas. Cuando no puedo depender de mi horario, no puedo depender del dinero que me va a entrar. Y eso significa sufrimiento para mi familia.

Ultimamente, me han recortado mucho las horas sin darme una razón. La incertidumbre hace nuestras vidas muy difíciles.

Yo les pido que apoyen a mi familia y a muchas otras como la nuestra, y que aprueben los proyectos de ley que mejorarían nuestros horarios. Es una forma importante de tener una vida estable, que todos nos lo merecemos. Muchas gracias.

#### ENGLISH

Good morning, my name is Norma Villalona. I live in Harlem and work at Wendy's.

I thank this Council Committee for hearing me today. At home, I am the sole breadwinner, not just for me, but for my daughter and her two little girls, 3 and 5 years old. When I cannot depend on my schedule, I cannot rely on how much money I will earn. And that means suffering for me and my family.

Currently, I work five days a week, which is more than others. I am supposed to work 30 hours a week, but lately, they have cut my hours by a lot without giving me a reason. If I am scheduled to come in at 5:45 and leave at 12, often by 10 o'clock my boss tells me to go home.

Those two hours, when they are taken away from me again and again, it makes a big difference for me and my girls. There are times I have to borrow money to pay the rent. That means I can't get ahead, or take care of whatever emergency comes up. The uncertainty makes our lives very difficult.

I ask you to support my family and many families like ours, and that you approve the bills that would greatly improve our scheduling. It's very important to make our lives stable, something we all deserve. Thank you.

Hello my name is Shantel Walker and I work at Papa Johns in Brooklyn.

I want to thank Committee Chair Miller and Committee Members for holding this hearing today.

I have worked in the industry for more than a decade and have held positions all the way up to being a manager in stores. Based on my experience, I believe these bills will make an immediate difference for workers and also help to address long running issues within the industry.

Fast-food workers are committed to their jobs, but without protections, they can be taken advantage of by employers. I have seen delivery drivers come from New Jersey to start a shift, paying their own tolls on the way, only to be told to wait in the parking lot without getting paid until the store decides they can start. I've seen workers have their shifts cut when they arrive on the job, but help out anyway because the work needs doing. And I know workers who don't see their kids for days on end because they are asleep when they get home from one shift and still in bed a few hours later when they are starting their next.

The scheduling bills before the committee will help address these problems and give workers the protection they need to fight for their rights when they are not respected.

There are problems, though, that can be too big for individual workers to take on. Off-the-books employment, underpayment of minimum wages, non-payment of overtime and unsafe working conditions need to be solved for entire stores and, ultimately, across the entire industry. The Fast Food Workers Empowerment Bill will make it easier for workers to build an organization that will have the capacity to shine a light on these major problems and the power make restaurants meet fair standards that are expected of them.

Fast-food workers have fought hard to come this far. I urge you to pass these bills so that we are protected as we continue our struggle and have our own organization that can fight for our rights on an industry-wide scale.

Thank you.

Shortened version:

Hello my name is Shantel Walker and I work at Papa Johns in Brooklyn.

I want to thank Committee Chair Miller and Committee Members for holding this hearing today.

I have worked in the industry for more than a decade and have held positions all the way up to being a manager in stores.

Fast-food workers are committed to their jobs, but without protections, they can be taken advantage of by employers. I've seen workers have their shifts cut when they arrive on the job, but help out anyway because the work needs doing.

There are problems, though, that can be too big for individual workers to take on. Off-the-books employment, underpayment of minimum wages, non-payment of overtime and unsafe working conditions need to be solved for entire stores and, ultimately, across the entire industry.

I urge you to pass these bills so that we are protected as we continue our struggle and have our own organization that can fight for our rights on an industry-wide scale.

Thank you.

Hola. Mi nombre es Jose Juarez y trabajo como cocinero en Domino's en Washington Heights hace 4 años y 8 meses.

Quiero agradecerle al Concejal Miller y los otros miembros de comité por darme esta oportunidad de compartir mi historia.

Ahora en mi tienda, trabajo cinco días por semana pero el manager solo me da 5 horas de trabajo cada día. Quiero un horario de tiempo completo pero no escuchan a mis pedidos.

Trabajar solamente 25 horas por semana no es suficiente para mantener a mi familia. Tengo un niño de 4 años y un bebe recién nacido y mi esposa no está trabajando ahora. También envío dinero a mis padres en México.

Y con otros compañeros en mi tienda, el manager corta sus horas de trabajo en el último momento. A veces llegan a la tienda y él dice que ha cambiado el horario y sus horas fueron cortados.

Es muy importante para nosotros que ustedes aprueban estos proyectos de ley.

Y cuando tenemos leyes que hacen mejor nuestros horarios, necesitamos una organización en que podemos educar a los compañeros sobre sus derechos en el trabajo y luchar para lo que necesitamos en nuestras comunidades, como viviendas asequibles y reforma migratoria.

Les pido a aprobar estos leyes para trabajadores de comida rápida lo más pronto posible.

Gracias.

Short Version:

Hola. Mi nombre es Jose Juarez y trabajo como cocinero en Domino's en Washington Heights hace 4 años y 8 meses.

En mi tienda, el manager nos corta las horas de trabajo en el último momento. A veces uno llega a la tienda y él dice que ha cambiado el horario. Es muy importante para nosotros que ustedes aprueban estos proyectos de ley.

Y también necesitamos una organización en que podemos educar a los compañeros sobre sus derechos en el trabajo y luchar para lo que necesitamos en nuestras comunidades.

Les pido a aprobar estos leyes para trabajadores de comida rápida lo más pronto posible.

Gracias.

Hello my name is Jose Juarez and I have worked as a cook at Domino's in Washington Heights for the last four years and 8 months.

I want to thank Council Member Miller and the other committee members for giving me this opportunity to share my story.

Right now in my store, I work 5 days a week but the manager only gives me 5 hours a day. I want a full-time schedule but he doesn't heed my request.

I only work 25 hours and week and its not enough to take care of my family. I have a 4 year old son and a new baby and my wife isn't working now. I also send money to my parents in Mexico.

And other workers in my store have their hours cut by the manager at the last minute. Sometimes they arrive at the store and he tells them the schedule has changed and their hours have been cut.

It's very important for us that you pass these bills.

And when we have laws that improve our schedules, we need an organization that can educate our coworkers about their rights and fight for what we need in our communities like affordable housing and immigration reform.

I ask you to pass these bills as soon possible.

Thank you.

Carlos Juarez testimony

Buenos días, mi nombre es Carlos Juarez. Vivo en el Alto Manhattan y trabajo en Dominos.

Quiero darlas gracias a los miembros del este comité del Consejo por la audiencia de hoy. Los proyectos de ley que están mirando son muy importantes para mejorar las vidas de los trabajadores de comida rápida como yo. Les pido que los aprueben.

Tengo una esposa y dos niños, uno de siete años de edad y otro de un año. Ellos dependen de lo que yo gano en mi trabajo. Pero nunca puedo contar con un horario fijo. Antes trabajaba cinco días a la semana, 32 horas, y con eso podía más o menos pagar nuestros gastos.

Pero últimamente me han rebajado a 20 horas en cuatro días y no me alcanza. A veces me cambian las horas sin aviso, y solo me entero cuando reviso la lista en el trabajo. El jefe nunca me llama para avisarme, aunque tiene mi teléfono. Con menos horas, a veces mi cheque era de \$180 o \$200 dolares, muy poco. A veces tengo que quedarme sin comer para que la comida alcance para mis hijos. Por eso tuve que buscar un segundo trabajo. Pero aún así, cada vez que me mandan temprano a mi casa, pierdo horas y se me hace más difícil poder mantener mi familia.

Les pido que aprueben estas leyes para mejorar nuestros horarios, y para poner alto a los abusos que nuestros jefes tienen con nosotros, jugando con nuestras vidas. Muchas gracias.

Shortened Version:

Carlos Juarez testimony

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Cada vez que me mandan temprano a mi casa, pierdo horas y se me hace más difícil poder mantener mi familia.

Les pido que aprueben estas leyes para mejorar nuestros horarios, y para poner alto a los abusos que nuestros jefes tienen con nosotros, jugando con nuestras vidas. Muchas gracias.

ENGLISH

Good morning, my name is Carlos Juarez. I live in Upper Manhattan and work at Domino's.

I want to thank the members of this Council committee for holding today's hearing. The bills in front of you are very important to improve the lives of fast food workers like me. I ask that you approve them.

I have a wife and two kids, seven and one years old. They depend on whatever I make at work. But I can never count on a steady schedule. I used to work five days a week, 32 hours, and with that I was able to more or less pay my expenses.

But lately they have reduced me to four days a week, 20 hours. And that's not enough. Sometimes they change my hours without telling me, and I only find out when I look at the schedule at work. My supervisor never calls to tell me, though he has my number. With fewer hours, mi check has been \$180 or \$200 dollars in a week. That's too little. Sometimes I have to skip meals so my kids can eat. That's why I had to get a second job. But even then, every time I am sent home early, I lose hours and it makes it harder for me to support my family.

I ask you to approve these laws to improve our scheduling, and to stop the abuses that our bosses subject us to. They are playing with our lives. Thank you.

Buenas tardes. Mi nombre es Jose Sanchez. Vivo en Washington Heights y trabajo en Domino's en Washington Heights hace 6 años.

Quiero agradecerle al Concejal Miller y los otros miembros de comité por darme esta oportunidad de compartir mi historia.

Estoy aquí hoy para pedirles aprobar esta legislación muy importante para trabajadores como yo.

En mi tienda, nadie tiene un horario fijo. Cada día, no sabemos a qué hora vamos a salir del trabajo.

Si el manager piensa que no hay pedidos suficientes, nos manden a la casa temprano aunque necesitamos las horas de trabajo y el salario para vivir y cuidar a nuestras familias.

Pero cada semana no sabemos si vamos a ganar dinero suficiente para pagar la renta y todos los biles.

En mi tienda y otra que está cerca, nosotros estamos en huelga hoy porque sufrimos de represalias cuando pedimos un horario fijo a nuestros jefes.

Después de pedir horarios fijos, los managers nos dicen los managers cortaron nuestras horas como represalia.

Y ahora estamos mas que treinta personas en huelga.

Es por eso que necesitamos que ustedes pasen estos proyectos de ley para trabajadores como nosotros.

Sin leyes, los dueños no respetan a nosotros.

Queremos trabajar per, sobre todo, queremos trabajar con dignidad y respeta.

Gracias por su atención.

Shortened Version:

Buenas tardes. Mi nombre es Jose Sanchez. Vivo en Washington Heights y trabajo en Domino's en Washington Heights hace 6 años.

Quiero agradecerle al Concejal Miller y los otros miembros de comité por darme esta oportunidad de compartir mi historia.

Estoy aquí hoy para pedirles aprobar esta legislación muy importante para trabajadores como yo.

En mi tienda, nadie tiene un horario fijo. Cada semana no sabemos si vamos a ganar dinero suficiente para pagar la renta y todos los biles.

Es por eso que necesitamos que ustedes pasen estos proyectos de ley para trabajadores como nosotros.

Queremos trabajar per, sobre todo, queremos trabajar con dignidad y respeto.

Gracias por su atención.

**English:**

Good afternoon. My name is Jose Sanchez. I live in Washington Heights and I have worked at Domino's in Washington Heights for the last 6 years.

I want to thank Council Member Miller and the other committee members for giving me this opportunity to share my story.

I am here today to ask you to approve this very important legislation for workers like me.

In my shop, no one has a fixed schedule. Every day, we do not know what time we are going to leave work.

If the manager thinks that there are not enough orders, he sends us home early although we need the hours of work and the salary to live and care for our families.

But every week we do not know if we are going to make enough money to pay the rent and all the bills.

In my store and another that is nearby, we are on strike today about retaliation that we had when we asked for a fixed schedule for our bosses.

After asking for fixed times, the managers cut our hours in retaliation.

And now we are about three dozen people on strike.

That is why we need you to pass these bills for workers like us.

Without laws, the owners do not respect us.

We want to work but above all, we want to work with dignity and respect.

Thanks for your attention.

Good afternoon. My name is Flavia Cabral. I live in the Bronx and work at McDonald's in Manhattan.

Thank you Chairperson Miller and the members of the committee for holding this hearing today.

What we are fighting for and what the bills you are considering represent to us is the chance to finally have a decent life.

As I wrote in today's Daily News, I like my job. I like the cooking and the interaction with customers. But the hard part is dealing with my schedule. I'm only on the schedule for three days a week even though I want more hours.

This is also a problem for a lot of my coworkers. Many of them never have a stable schedule. Their hours are changed without any notice. Recently one of my coworkers arrived at our store for his shift and the manager told him it was slow so he should just wait around 2 hours before clocking in.

This is unfair and inhumane but it happens all the time.

We just want a steady 40 hour a week job. We want some time for our families and time for ourselves. We work hard and we deserve that. Everyone deserves that.

The fast food industry is booming. McDonald's is part of a \$200 billion dollar industry; they should pay their hard-working employees enough to cover the necessities and support their families, and not force taxpayers to shoulder the burden.

I just want to work, pay my taxes and contribute.

We are New Yorkers and we deserve the same respect from the fast-food industry that it gives to its customers.

My coworkers and I joined together to win \$15 an hour and now we're fighting for a fair work week, so we can truly have a job with a living wage.

By putting more money into the pockets of hard working New Yorkers, we can get our economy moving and rebuild the middle class.

I urge you to pass these bills as soon as possible!

Thank you.

Good afternoon. My name is Flavia Cabral. I live in the Bronx and work at McDonald's in Manhattan.

Thank you Chairperson Miller and the members of the committee for holding this hearing today.

What we are fighting for and what the bills you are considering represent to us is the chance to finally have a decent life.

My coworkers and I joined together to win \$15 an hour and now we're fighting for a fair work week, so we can truly have a job with a living wage.

By putting more money into the pockets of hard working New Yorkers, we can get our economy moving and rebuild the middle class.

Good morning Chair Miller, members of the committee and City Council.

My name is Munira Meghji and I am a Dunkin' Brands franchisee. I have 18 restaurants in the 4 Boroughs (Brooklyn, Manhattan, Queens and Bronx) and employ approx. 416 people. Over 30 years ago I opened my first restaurant in Elmhurst, Queens. Opening my restaurant required me to take out loans with no guarantee of success or any return on my hard work and personal investment.

As a new employer of 32 people, I focused not just on revenue but on the employees who interact with our guests every day. I sought to provide my employees with an opportunity to grow either through earning promotions and by ensuring they had the hours they needed to help support their families, pay for their tuition and books, or pay their ever increasing bills.

I now employ 416 to 430 people who I value and respect - a sentiment that seems to somehow be lost in the intent of the legislative package before us.

After 30 years I am proud to say I have weathered the storms of an unsteady economy combined with the increased costs of products, equipment, maintenance and repairs, while providing my employees with flexible hours, dependable wages and a strong benefits package.

Small business owners face cost increases every year – whether they are for products, materials, wages, benefits or the ongoing increase in government fees and fines. Regardless, we have to pay our bills – business loans, rent, utilities, maintenance, renovations and the list goes on. Still, as small business owners, we do what we can to make sure our prices do not increase beyond our customers' spending capacity.

No matter what happens, it is my responsibility to find ways to keep my business afloat – so I can continue to pay my employees who rely on me to help feed their families and pay their bills.

I am testifying today to explain how this package of legislation will adversely affect not just me as a small business owner, but my employees who this legislation intends to help.

The legislation you are proposing will stifle my ability to provide my employees with the flexibility they need and deserve. The intent to improve the scheduling process will actually result in no flexibility and no fairness. The proposal to fine employers who need to quickly fill open shifts when employees call out sick or need to care for a loved one – situations already covered by the Paid Sick Leave Law - will prevent small business owners from being able to provide another employee with an extra shift. Leaving such shifts open puts unnecessary strain on the employees already scheduled to work, impose hardship on my business operations and reducing the quality of service my customers expect and deserve.

Beyond the fines associated, the added language encouraging employees or a union-run not-for-profit organization to pursue legal action on behalf of employees will force small business owners like me to expend financial resources fighting frivolous lawsuits in court.

I agree with you that procedures like on-call scheduling and clopening are not ideal. However, if my employees wish to volunteer to take on more shifts, they should be able to do so. I strongly encourage you to amend your legislation to protect employees from such practices, but not prevent them from earning extra income.

Lastly, the legislation requiring employers to allow employees to contribute a portion of their hard-earned salaries to a union run not-for-profit organization seems counterproductive, especially since current labor laws more than adequately protect employees from bad business practices. I do not see how creating yet another entity – paid for with employees' salaries – will result in further improving the

workplace or small business practices. There will always be bad actors in any industry. Casting a wide net to prevent the egregious actions of a few has never been a successful practice.

The more government officials inject themselves into the day-to-day operations of small businesses, the harder it is for us to be successful and continue creating the much-needed jobs our employees rely upon.

I respectfully urge you to invite more small business owners like me to participate in this discussion before you vote on this legislation. Holding a hearing on a weekday when small business owners and their employees are earning a living prevents the affected parties from participating in what should be a more inclusive discussion.

The Fair Work Week package, while well-intentioned, needs more input from those it will most affect. Allowing small business owners and employees to have a voice in the policy-making process promotes transparency and inclusion. The reality is if serious changes are not made to this legislation, jobs will be lost and businesses fighting to survive could fail.

I thank you for the opportunity to testify today. I look forward to future discussions that will protect the prosperity of small business owners who create thousands of jobs and fuel New York City's economic engine.

Sincerely,

Munira Meghji

Franchisee

**Testimony of Stan Chin to the New York City Council Committee on Civil Service and Labor  
related to the Fair Workweek Package of Legislation  
March 3, 2017, New York City Council Chambers, City Hall**

Name: Stanley Chin  
Business Name: Wendy's  
Number of Restaurants: 4  
Number of People Employed: 180  
Year Opened First Restaurant: 1988

Council Chair Miller, members of the committee and City Council. Thank you for the opportunity to testify on the Fair Workweek legislation.

As a small business owner, I am very concerned about the impact the proposed legislation will have on my employees and my restaurant. I value and respect my employees - a sentiment that seems to somehow be lost in the intent of the legislative package before us. I want to make sure my employees have the opportunity to grow with my business and/or receive the hours they need to meet their financial responsibilities. Approximately 60% of my employees are full time and many have been employed more than a few years which reflects loyalty on both sides.

The Fair Workweek legislation will stifle my ability to provide my employees with the flexibility they need and deserve. The claimed intent to improve the scheduling process will actually result in no flexibility and no fairness. The proposal to fine employers who need to quickly fill shifts when employees call out sick or need to care for a loved one - employment practices already covered by the Paid Sick Leave Law - will prevent small business owners from being able to provide another employee with an extra shift. In essence, this legislation will prevent a shift from being filled, put unnecessary strain on the employees already scheduled to work, impose hardship on my business operations and reduce the quality of service my customers expect and deserve. I did surveyed some of my employees and they value the flexibility and feel it would be difficult to give their requests more than 14 days in advance. Also, the administrative burden to business owners to prove compliance with the new bill would be cumbersome and huge.

Beyond the fines associated, the added bill language that encourages employees or a union-run not-for-profit to seek legal action on behalf of employees will require small business owners like me to expend financial resources fighting frivolous lawsuits in court.

The legislation requiring employers to allow employees to contribute a portion of their hard-earned salaries to a union-run not-for-profit seems counterproductive, especially since current labor laws more than adequately protect employees from bad business practices. I do not see how creating yet another entity - paid for with employees' salaries - will result in further improving the workplace or small business practices.

As a small business owner, I do not endorse business practices such as "clopening" or "on-call scheduling" and support practical regulations restricting such practices. However, if my employees wish to take on more shifts, they should be able to do so. I strongly encourage you to amend your legislation so that it protects employees from "clopening" and "on-call scheduling" practices but does not prevent them from earning extra income if that schedule suits their routine better. Small business owners face cost increases every year - whether they are for products, materials, wages, benefits or the ongoing increase in revenue-generating government fees and fines. Regardless, we have to pay our bills - business loans, rent, utilities, maintenance, renovations, and the list goes on. Still, we do what we can to make sure our prices do not increase beyond our customers' spending capacity.

The more government officials inject themselves into the day-to-day operations of small businesses, the harder it is for us to be successful and continue creating the much-needed jobs our employees rely upon.

I respectfully urge you to invite more small business owners and our employees to participate in this discussion before you vote on this legislation. Holding a hearing on a Friday when small business owners and their employees are earning a living prevents the affected parties from participating in what should be a more inclusive discussion.

I commend the Council for their past efforts to improve transparency in the budget process by instituting participatory budgeting. These meetings occur when most people are able to attend and participate. The Council website outlines participatory budgeting as:

- *Grassroots democracy at its best (that) helps make budget decisions clear and accessible.*
- *It gives real power to people who have never before been involved in the political process.*
- *And it results in better budget decisions—because who better knows the needs of our community than the people who live there?*

The Fair Workweek package, while well-intentioned, needs more input from those it will most affect. Allowing small business owners and employees to have a voice in the policy-making process promotes transparency and inclusion. The reality is if serious changes are not made to this legislation, jobs will be lost and businesses fighting to survive could fail. I thank you for the opportunity to testify today. I look forward to future discussions that will protect small business owners who create thousands of jobs and fuel New York City's economic engine.

Stanley Chin  
Wendy's (4 restaurants employing 180 New Yorkers)

**Testimony of Kevin Woodside, Wenesco Restaurant Systems (Two Restaurants in New York City, employing 80 people) to the New York City Council Committee on Civil Service and Labor related to the Fair Workweek Package of Legislation March 3, 2017, New York City Council Chambers, City Hall**

Council Chair Miller, members of the committee and City Council. Thank you for the opportunity to testify on the Fair Workweek legislation.

As a proud New York City restaurant owner, I take the health and success of my employees seriously. I have worked with many of them for years and consider them a part of our family. That's why I'm seriously troubled by this legislative package.

While I understand that the Mayor and the City Council have the best interests of foodservice industry employees in mind, it is frustrating that they did not reach out to people who actually work in restaurants before introducing these bills. Through the lens of a small business owner, this law, though well intended, disrupts the flexibility that employers and employees rely on, and that keeps New York City's restaurant industry vibrant.

My story is not at all unique; you will easily find hundreds of other employers just like me.

I began in this business at entry level, nearly forty years ago. The flexibility I had and the skills I learned helped pay for my college tuition as I continued my studies at home in New York. I eventually became an owner/operator in 1998 and have built several new restaurants since, including here in New York City, adding hundreds of new jobs along the way. Like my mentors before me, I have enjoyed seeing so many of the people that I oversee build substantial careers for themselves.

I employ 80 people in the Bronx of all different ages, backgrounds and skill levels. I take great pride in taking care of my employees. I provide regular pay increases, vacation and sick pay, tuition assistance, offer health benefits and more. I also provide a career ladder for those with a strong work ethic and who derive a great joy in finding personal success in the service to others. I value and respect my employees - a sentiment that seems to somehow be lost in the intent of the legislative package before us. I want to make sure my employees have the opportunity to grow with my business and/or receive the hours they need to meet their financial responsibilities.

The Fair Workweek legislation will stifle my ability to provide my employees with the flexibility they need and deserve. The claimed intent to improve the scheduling process will actually result in no flexibility and no fairness. The proposal to fine employers who need to quickly fill shifts when employees call out sick or need to care for a loved one - employment practices already covered by the Paid Sick Leave Law - will prevent small business owners from being able to provide another employee with an extra shift. In essence, this legislation will prevent a shift from being filled, put unnecessary strain on the employees already scheduled to work, impose hardship on my business operations and reduce the quality of service my customers expect and deserve.

Beyond the fines associated, the added bill language that encourages employees or a union-run not-for-profit to seek legal action on behalf of employees will require small business owners like me to divert financial resources and precious time away from my business fighting frivolous lawsuits in court.

Employee requested and otherwise initiated schedule changes occur regularly and suddenly, often multiple times a day. This leave the advance scheduling requirements and shift change penalties, as written, fully unworkable.

The legislation requiring employers to allow employees to contribute a portion of their hard-earned salaries to a union-run not-for-profit seems counterproductive, especially since current labor laws more than adequately protect employees from bad business practices. I do not see how creating yet another entity - paid for with employees' salaries - will result in further improving the workplace or small business practices.

As a small business owner, I do not endorse business practices such as “clopening” or “on-call scheduling” and support practical regulations restricting such practices. However, if my employees wish to take on more shifts, they should be able to do so. I strongly encourage you to amend your legislation so that it protects employees from “cloepening” and “on-call scheduling” practices but does not prevent them from earning extra income.

Small business owners face cost increases every year – whether they are for products, materials, wages, benefits or the ongoing increase in revenue-generating government fees and fines. Regardless, we have to pay our bills – business loans, rent, utilities, maintenance, renovations, and the list goes on. Still, we do what we can to make sure our prices do not increase beyond our customers’ spending capacity.

The more government officials inject themselves into the day-to-day operations of small businesses, the harder it is for us to be successful and continue creating the much-needed jobs our employees rely on.

I respectfully urge you to invite more small business owners and our employees to participate in this discussion before you vote on this legislation. Holding a hearing on a Friday when small business owners and their employees are earning a living prevents the affected parties from participating in what should be a more inclusive discussion.

I commend the Council for their past efforts to improve transparency in the budget process by instituting participatory budgeting. These meetings occur when most people are able to attend and participate. The Council website outlines participatory budgeting as:

- Grassroots democracy at its best (that) helps make budget decisions clear and accessible.
- It gives real power to people who have never before been involved in the political process.
- And it results in better budget decisions—because who better knows the needs of our community than the people who live there?

The Fair Workweek package, while well-intentioned, needs more input from those it will most affect. Allowing small business owners and employees to have a voice in the policy-making process promotes transparency and inclusion. The reality is if serious changes are not made to this legislation, jobs will be lost and businesses fighting to survive could fail. I thank you for the opportunity to testify today. I look forward to future discussions that will protect small business owners who create thousands of jobs and fuel New York City’s economic engine.

Kevin Woodside ☰  
[Kevin@Wenesco.biz](mailto:Kevin@Wenesco.biz)

**Wenesco Restaurant Systems**

910 Sylvan Avenue, Suite 150  
Englewood Cliffs, NJ 07632  
201 567-4900 Office

**Testimony of Michael Veneziano-VP of Government Affairs, Doherty Enterprises  
(11 Panera Bread Cafés: 5 in Queens, 4 in Brooklyn, 2 in Staten Island with approximately 500 Employees)  
To the New York City Council Committee on Civil Service and Labor  
related to the Fair Workweek Package of Legislation  
March 3, 2017, New York City Council Chambers, City Hall**

Number of People You Employ: Approximately 500

Year You Opened Your First Restaurant: Opened our first borough Panera Bread in April 2007.

Council Chair Miller, members of the committee and City Council. Thank you for the opportunity to present testimony on the Fair Workweek legislation.

Doherty Enterprises is very concerned about the impact the proposed legislation will have on their employees and cafés. We value and respect our employees - a sentiment that seems to somehow be lost in the intent of the legislative package before us. We want to make sure our employees have the opportunity to grow with our company and receive the hours they need to meet their financial responsibilities. Without them, we would not be in business!

The Fair Workweek legislation will stifle our ability to provide our employees with the flexibility they need and deserve. The claimed intent to improve the scheduling process will actually result in no flexibility and no fairness. The proposal to fine employers who need to quickly fill shifts when employees call out sick or need to care for a loved one – employment practices already covered by the Paid Sick Leave Law - will prevent business owners from being able to provide another employee with an extra shift.

In essence, this legislation will prevent a shift from being filled, put unnecessary strain on the employees already scheduled to work, impose hardship on our business operations and reduce the quality of service our customers expect and deserve. We continually strive to “WOW every guest every time” and we never want to compromise or deviate from this goal. Beyond the fines associated, the added bill language that encourages employees or a union-run not-for-profit to seek legal action on behalf of employees will require business owners to expend financial resources fighting frivolous lawsuits in court.

We do not endorse business practices such as “clopening” or “on-call scheduling” and support practical regulations restricting such practices. However, if our employees wish to take on more shifts, they should be able to do so. We strongly encourage you to amend your legislation so that it protects employees from “clopening” and “on-call scheduling” practices but does not prevent them from earning extra income if they so desire to.

All business owners face cost increases every year – whether they are for products, materials, wages, benefits or the ongoing increase in revenue-generating government fees and fines. Regardless, we have to pay our bills – business loans, rent, utilities, maintenance, renovations, and the list goes on. Still, we do what we can to make sure our prices do not increase beyond our customers’ spending capacity.

The more government officials inject themselves into the day-to-day operations of our businesses, the harder it is for us to be successful and continue creating the much-needed jobs and career opportunities our employees rely upon.

I respectfully urge you to invite more business owners and our employees to participate in this discussion before you vote on this legislation. We would welcome a seat at the table to answer any questions and or concerns that you may have.

Holding a hearing on a Friday when business owners and their employees are earning a living prevents the affected parties from participating in what should be a more inclusive discussion.

We commend the Council for their past efforts to improve transparency in the budget process by instituting participatory budgeting. These meetings occur when most people are able to attend and participate.

The Fair Workweek package, while well-intentioned, needs more input from those it will most affect. Allowing business owners and employees to have a voice in the policy-making process promotes transparency and inclusion. The reality is if serious changes are not made to this legislation, jobs will be lost and businesses fighting to survive could fail.

I thank you for time and I look forward to future discussions that will protect business owners who create thousands of jobs and fuel New York City's economic engine.

Sincerely

Mike Veneziano-VP of Government Affairs

Doherty Enterprises

11 Panera Bread Café's (5 in Queens, 4 in Brooklyn and 2 in Staten Island)

Approximately 500 Employees

Opened our first borough Panera Bread in April 2007

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1394/1387 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Jay Peltz

Address: 1388 Bostwick St, Brooklyn, NY

I represent: Food Industry Alliance of NY

Address: Same

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Barbara Allen

Address: 45 East End Ave

I represent: Womens City Club of NY

Address: 110 West 40th St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Hector Figueroa

Address: New York, NY

I represent: 32BT SEIU

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Jorel Ware

Address: New York, NY

I represent: Fast Food Workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Stuart Appelbaum

Address: New York, NY

I represent: RWDSU

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Tanika Reyes

Address: New York, NY

I represent: Retail Workers

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Kyle Bragg

Address: \_\_\_\_\_

I represent: 3255 SEIU

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Rachelle LaForest

Address: \_\_\_\_\_

I represent: Retail Action Project

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Jedidiah Labinjo

Address: \_\_\_\_\_

I represent: RWDSC

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Harmonie Higgins

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Elianne Farhat

Address: New York, NY

I represent: Center for Popular Democracy

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: James Darrot

Address: New York, NY

I represent: Fiscal Policy Institute

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Susan Lambert

Address: \_\_\_\_\_

I represent: University of Chicago

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Harold Stopler

Address: New York, NY

I represent: Community Service Society

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Lonnie Golden

Address: New York, NY

I represent: Economic Policy Institute

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Joan Montalvy

Address: \_\_\_\_\_

I represent: Change to Win

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Vanice Fine

Address: \_\_\_\_\_

I represent: Rutgers University

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Rosa Rivera

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Wilton Major

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jose Carillo

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Pamela Major

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Arthur Cheliotas

Address: New York, NY

I represent: CWA - Local 1180

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Phoebe Taubman

Address: \_\_\_\_\_

I represent: A Better Balance

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Andrea Johnson

Address: \_\_\_\_\_

I represent: National Women's Law Center

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Ariane Hegewisch

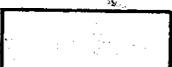
Address: \_\_\_\_\_

I represent: Institute for Women's Policy Research

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Anna Haley-Lock

Address: \_\_\_\_\_

I represent: Rutgers University

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Flavia Cabral

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Elexus E

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Vance Brooks

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Norma Villalona

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Nancy Vargas

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Mercedes Ramirez

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Jose Sanchez

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Edwin Cabrera

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Edica Reese

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Shantel Walker

Address: \_\_\_\_\_

I represent: Fast Food Workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

Name: Ty-Sharon Nunez (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Past Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

Name: Nose Nunez (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Past Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

Name: Uolefa Luis Dauze (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Past Food workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1396 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Carlos Ucar

Address: \_\_\_\_\_

I represent: Fast Food workers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jacqueline Martinez

Address: 2356 Lorillard pl #18

I represent: Wendy's 33<sup>rd</sup> 5<sup>th</sup> ave

Address: 336 W 33<sup>rd</sup> 5<sup>th</sup> ave

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/2017

(PLEASE PRINT)

Name: Dence Brown

Address: 109-11 Union Hall street

I represent: Brook Wenco LLC

Address: 44-16 Queens Blvd

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: RICHARD NECKLER

Address: 3939 BROADWAY

I represent: WENDY'S

Address: 5TH AVE

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. ALL Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: KEVIN WOODSIDE

Address: \_\_\_\_\_

I represent: WE SERVE NEW YORKERS COALITION

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. All Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jessica Walker

Address: \_\_\_\_\_

I represent: Manhattan Chamber of Commerce

Address: 1120 Ave of the Americas 4<sup>th</sup> Fl. NY, NY 10036

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1386 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/2017

(PLEASE PRINT)

Name: Kevin Digen

Address: 1001 6th Avenue 3rd Floor, NY, NY 10018

I represent: NYS Rocket & Associates

Address: 404 New River Rd. Albany NY 12207

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deputy Commissioner Amit Bagga

Address: \_\_\_\_\_

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deputy Commissioner Liz Vladeck

Address: \_\_\_\_\_

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Commissioner Lorelei Salas

Address: \_\_\_\_\_

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Associate Commissioner Steven Kelly

Address: \_\_\_\_\_

I represent: Department of Consumer Affairs

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Steven Kelly

Address: Associate Commissioner

I represent: OLPS at DCA

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Cathy Adams, Deputy Director of City Legislative Affairs  
Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1394 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Melvyn Jones

Address: \_\_\_\_\_

I represent: Wendys

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. comp bills Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 3-3-17

(PLEASE PRINT)

Name: JAMES PARROTT

Address: 11 Park Place # 701

I represent: Fiscal Policy Institute

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1387 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Stuart Appelbaum

Address: \_\_\_\_\_

I represent: RWDSU

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1399 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3.3.17

(PLEASE PRINT)

Name: Phoebe Taubman / A Better Balance

Address: 80 Maiden Lane, Suite 606 NY 10038

I represent: A Better Balance

Address: 80 Maiden Lane, Ste 606

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1387 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Rachel LaForest

Address: \_\_\_\_\_

I represent: Retail Action Project

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1387 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Jedidiah Labinjo

Address: \_\_\_\_\_

I represent: Retail Action Project

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1387 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 3/3/17

(PLEASE PRINT)

Name: Janika Reyes

Address: \_\_\_\_\_

I represent: Retail Action Project

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. A11 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Vacim Samyul

Address: \_\_\_\_\_

I represent: Brooklyn Chamber of Commerce

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 03-03-17

(PLEASE PRINT)

Name: Michael A. DeFreitas

Address: 120-65, 131 Street South Ozone Park

I represent: Fast Food workers / Airport workers

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms