

Alternative Work Arrangements

Setting an Example

by Michelle Schaap

When I began practicing law in the late 1980s, alternative work arrangements and/or part-time attorneys were few and far between. Most women at firms who were interested in making partner would not even broach the subject for fear of being labeled as being on the “mommy track.” Times have changed, at least at my firm, where several women attorneys, including partners (even litigators) have various flexible arrangements. What I have found, in my alternative work arrangements, should not be surprising to any of us: If you show yourself to be committed, hard-working and valuable, your employer will be more willing to work with you to meet your needs.

In 1989, my husband and I moved to Tokyo. I had the privilege of working at Mori Hamada & Matsumoto (then Hamada & Matsumoto) as their ‘foreign associate.’ For the first year I was a full-time attorney, working full days and traveling when needed. When I became pregnant with our first child, I approached the senior partner, Kunio Hamada, about the prospect of working part time.

To appreciate fully the unique response I received from Mr. Hamada and the entire firm, you must understand that in 1989 there were very few women attorneys in Japan (Japanese or foreign). I was a member of FEW (Foreign Executive Women) in Tokyo, and the acronym was a correct description: There were few women executives working in Japan’s capital. There were no women attorneys at Hamada & Matsumoto other than myself, and certainly no working pregnant women in any of the meetings in which I participated. And there were no part-time attorneys. Period.

So, when I approached Mr. Hamada I was venturing into new territory. His response to me was unique for any country, let alone Japan: “Schaap-San,” he said, “We do not want to be responsible for the maladjustment of your child. Whatever you want to do, we will do.”

I suspect that were I lazy, or if I did only that which was asked of me and nothing more, or had not already demonstrated my strong work ethic and commitment to the firm, Mr. Hamada’s response would have been very different. Instead, after my son was born I returned to the office three days a week. My days were fixed by my nanny’s schedule and only changed if the firm gave me at least one week’s advance notice. To further accommodate this flexible schedule, the firm put a fax machine in my house, which was abused only once. (After one of the attorneys sent a fax to the house at 2 a.m., I spoke with Mr. Hamada and we never had a fax sent to the house after 10 p.m. the rest of the time I was in Japan.)

I continued to work hard for the firm, and the firm, in turn, treated me with the utmost respect. I was paid four-fifths of my original salary, and still received bonuses.

When it finally came time for me to leave Tokyo, at my farewell party a young woman I had never met before came up to me and thanked me. I said to her politely, “Who are you and why are you thanking me?” She told me that because of my successful part-time arrangement, she was able to become the first part-time Japanese working mother/attorney the firm had ever considered hiring. Because the firm’s experience with me was positive, it was ready to try an alternative arrangement with another attorney.

Two years later, I found myself pregnant again, this time while working in-house for a company in New Jersey. At the time, under the Family Medical Leave Act, the company’s obligation was limited to six weeks’ paid leave. Anything beyond that was left to each department to agree to—or not.

To complicate matters, just before I approached my boss about a part-time arrangement, a woman in another department had left the company in a very difficult position. She had been given a very unique arrangement: In the year after her child was born, the company agreed to allow her to work one day a week in the office, and two days from home. The agreement was that after the first year, she would return to the company full time. The day before she was to begin her full-time schedule, she informed her boss she was quitting to stay home with her child.

I respect anyone’s decision not to return to work after the birth of a child. However, by doing so one day before the agreed-upon date of return, this woman not only left the company in a bad position (and certainly burned her bridges), but her behavior left the company wondering whether it should ever again consider alternative arrangements with other employees.

Notwithstanding my boss’s trepidation, I persuaded him to agree to a flexible work arrangement. I would be out for two full months following the birth, during which time I would continue to handle certain aspects of my job with the help of DHL (this was before work via email was possible). Then, I would return to work three days a week for the next four months and resume full-time work after six months.

The arrangement worked beautifully. My secretary learned to read between crayon markings (after I drafted letters, my then three-year-old son would decorate them), and the DHL driver visited us twice a week to courier papers back and forth between the company’s office and my home. My boss was thrilled, I was thrilled, and my kids thrived.

Again, I do not think my boss would have been receptive to this arrangement—especially in light of the other experience the company recently had—if I had not already proven myself to be dedicated to my job and the company.

Since returning to private practice (when my eldest turned five), I have continued to work full time. However, even as a full-time attorney, when my children were younger, I left the office to drive carpools, deliver forgotten homework and lunches and attend school shows. My firm never questioned my comings and goings, my working from home or returning to work after I had done the ‘mom’ thing. Had I not demonstrated my commitment to the firm, the firm may not have been so understanding.

We are attorneys: We are supposed to be effective advocates. If you are reading this article as an employee (partner or associate) seeking a flexible arrangement, prepare your argument. Present to your firm a clear, well thought out proposal for the work schedule you are requesting. Do not ‘wing it’ and do not speak to (or with) emotion. Your firm is a business and this arrangement should be a win-win business proposition for both you and your office. Also remember that no one is indispensable, and prepare your position accordingly. Unless your firm has a written policy with hard and fast rules for part time and/or flex time, be flexible in your request. You may not get exactly what you want, but a well-presented plan with reasonable alternatives will help you guide your employer to an arrangement that will work for both parties. Once an agreement is reached, live up to your commitments fully, and be prepared to bend (for your employer) when needed. Even the best plans need to be changed for extenuating circumstances.

For readers who are the decision makers in their firms, if your firm has already embraced these flexible arrangements, you (hopefully) have already reaped the benefits of dedicated, hard-working professionals and staff. If you and your firm have not yet entertained these arrangements, from a business analysis standpoint, you are losing out on an opportunity. Assuming you made good choices in your hiring decisions, and trained your personnel well, you have invested time and money in these people. By not allowing flexible arrangements, you may find in time they will seek alternative employment, or take extended leave. You may also lose qualified candidates who are not interested in working for an employer that does not allow for alternative work arrangements.

By acknowledging people’s needs, recognizing that life is not always suited to a nine-to-five (or later) schedule at a desk, you are instilling loyalty in these people, and also making smart marketing choices. It should come as no surprise to any of us that employees who feel they (and their families) are valued and accommodated will be your strongest advocates in the marketplace.

I would like to think that the days of being ‘mommy tracked’—by choice or by force—are gone. The ability to work remotely, via email, Citrix, WebEx, Skype and other electronic means has made these alternative arrangements infinitely more doable. Of course it is important to remember the obligation falls on us, as professional women and men who are seeking alternative arrangements, to demonstrate to our employers, partners and coworkers that these arrangements work. Remember, your decision to abuse an alternative work arrangement can sour your company against future requests from others, while a successful arrangement can pave the way for the next person.

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