

Stop Paying Lip Service To Flex Time, Female Attys Say

By Jake Simpson

Law360, New York (April 20, 2014, 4:41 PM ET) -- When longtime McGuireWoods LLP partner Amy Manning had her first child 14 years ago, flexible work arrangements and telecommuting were hardly ever used in the legal industry. So Manning approached a meeting about the issue with her mentor at the firm, top antitrust and trade regulation partner Richard Rappaport, with more than a little trepidation.

“My hands were shaking under the table,” Manning said. “And he said, ‘Amy, I don’t care where you work. As long as you don’t leave and you continue to work with me and the firm, you can set [your hours] up however you need to make it work.’”

The experience of Manning, managing partner of McGuireWoods’ Chicago office and mother of three, is emblematic of the success that attorneys can achieve when given an alternative work schedule that allows them to also be involved in their family life -- a key to solving the lingering gender disparity at U.S. law firms. An examination of flex-time policies nationwide also reveals that firms that just pay lip service to the policy will lose female attorneys trying to balance work and family life.

In gathering data for the Glass Ceiling Report: 2014, Law360 found that 21 percent of law firm partners are women, while women make up 43 percent of the non partner ranks. Senior law firm leaders and top legal scholars told Law360 that educating partners about the benefit of flex time and providing mentors for women considering or using flex-time schedules are critical to making flex-time policies work.

Keeping The 'Flex' In Flex-Time Policies

Alternative work schedules — often referred to as flex-time, part-time or flex-work arrangements — do not always mean working fewer than five days a week. The best flex policies can be tailored to each attorney’s needs.

Shook Hardy LLP senior associate Ann Peper Havelka works five days a week, but is generally out the door by 4 p.m., allowing her to spend more time with her young son. Havelka said the firm was overwhelmingly supportive of her decision, allowing her to work on a 75 percent schedule and only pushing back her eligibility for partnership by a year.

“It was an automatic process — I wanted to do it and everyone said OK,” said Havelka, who hopes to make partner later this year. “That was really important to me, because I didn’t want to be set aside [by the firm] because I was making this decision. I wanted the policy to be not just in name — I wanted it to

actually be how it was implemented.”

Shook Hardy's policies have evolved and improved over the last decade with the help of the executive committee. Partner Bruce Tepikian, an executive committee member from 2006-2012 who began serving a second term this year, said Shook Hardy's leadership has explored ways to allow attorneys — mostly women — to pursue a robust legal career and still be an active part of their family life.

“We came up with policies that we thought would clearly outline the goal we were trying to achieve: to retain women who were leaving the firm,” Tepikian said.

Part of any successful flex-time policy is accounting for special circumstances, particularly when an attorney has a crisis at home. Goodwin Procter LLP attorney Abigail Hemani had twins shortly after making partner in 2008, but her situation changed when her young daughter began having medical problems.

Rather than castigating her for the extra time spent at the doctor's office or giving her work to someone else, Goodwin Procter allowed Hemani to keep an 80 percent work schedule and paid her 80 percent compensation even when she was forced to bill fewer hours some weeks because of her daughter's illness.

“There's no question that without this policy, I could never have stayed at the firm,” Hemani said. “Frankly, I plan to maintain [a flexible work schedule] indefinitely.”

Hemani has also taken advantage of Goodwin Procter's so-called true-up policy, a perk several top law firms have that was praised by partners and legal industry experts alike. If Goodwin Procter attorneys working a reduced-hours schedule exceed their billable hours target by at least 5 percent — for example, if an attorney working 80 percent regular hours records 90 percent billable hours — they are compensated for the excess work in both their salary and their bonus.

The policy was spearheaded by the firm's chief human resources officer Heidi Goldstein Shepherd, formerly a labor and employment partner for Goodwin Procter who worked part-time before the true-up policy existed at the firm.

“We find that sometimes people [on flex-time schedules] work harder and longer than they hoped, and now you don't have a feeling of putting in extra time and not seeing any extra financial benefit,” Shepherd said. “The pipeline of female attorneys is a huge issue, and to me this is a critical policy to maintain the pipeline.”

Policies In Name Only

As robust and helpful as a firm's flex-time policy is, however, it is only as strong as the partners who implement it. Maureen Dorney, a former DLA Piper partner who founded Paradigm Counsel and a **Law360 Female Powerbroker**, said that while the adoption of flex-time policies may be sincere by the firm, educating partners on the policy and making sure they actively support it is just as important.

“Partners have a lot of discretion about how they interact with associates who work for them,” Dorney said. “I think [implementation] varies widely, not just from office to office or practice group to practice group, but from partner to partner. So consistent partner education is key.”

Imperfect implementation can hit home even for firms that are nationally recognized as being “good for women.” One current and one former senior associate at the New York office of a national law firm — a firm honored last year by Working Mother as a Top 50 Law Firm for Women — say they were punished for attempting to adopt a flex-time schedule after they gave birth. Both women say they had their flex-time requests rejected and their business opportunities stripped by the firm.

The female associate still at the firm, who spoke on the condition of anonymity for fear of retribution by the firm, said the culture of the New York office is a “boys' club,” and the pro-women edicts from the firm's senior leadership in Texas don't make it to her office. The associate, who works in the firm's litigation group, spoke at length about hearing a presentation by firm leadership about flex-time and part-time policies and “literally laughing, because nothing they were saying holds true in the New York office.”

“The global culture can be whatever they want it to be, but when you're working with the same people 10 to 12 hours a day, that's a totally different story,” she said. “When you're working in an office with no real female mentors, leaders or senior partners of any kind, that changes the culture of the office.”

The other associate, who was let go by the firm and is currently considering a position at a regional firm, voiced similar sentiments and said the firm's inclusion in the Working Mother report was a matter of positive spin.

“A partner told me once after I mentioned the Working Mother study that it was completely driven by our clients,” she said. “The driving force behind the [flex-time and maternity leave] programs was to impress other people. It was pretty clear what they were trying to do, and it was pretty disgusting.”

Both women were lateral hires by the firm, and both said they would never have joined if they had known the flex-time and related policies were not universally implemented and supported by firm leadership.

The Key To Flex-Time Success: Partner Buy-In

The disastrous flex-time experience of those two associates is not uncommon, according to Linda Chanow, executive director of the Center For Women in Law at the University of Texas. Chanow said that despite research by the center and other organizations showing that flex-time attorneys can be just as valuable to firms as full-time lawyers, there continues to be a bias that people who seek out flexible schedules aren't as committed to the firm.

“Because of the horizontal structure of law firms, policies are largely implemented group by group and individual by individual,” she said. “That's where the implementation problems really arise, on a partner-associate level and on a day-to-day basis. Firms that are doing this better have coordinators to manage the partners and associates involved.”

Havelka, the Shook Hardy associate, said that widespread acceptance by a firm's partners not only allows female attorneys to better balance work and family, but also engenders a long-term commitment to the firm.

“Partner buy-in is incredibly important, but our firm leadership takes this so seriously that an individual partner who didn't agree with the program would be dealt with,” she said of Shook Hardy's flex-time policies. “When you feel like the partners and the firm you're working for want to you have a successful

and full life outside the firm, that creates loyalty.”

Each firm must tailor its flex-time policies to its particular needs, especially firms with attorneys spread out over many offices nationwide. But the end result should be that women who try to balance the practice of law and family life are treated the same as everyone at the firm who doesn't face that conundrum.

“There's been no change in the treatment of me and the efforts to help me and grow my book of business,” said Schiff Hardin LLP partner Theresa Marx, who has worked on a flex time schedule since 2010. “In fact, as I've become a partner, I've been given more responsibility. Being an integral part of the team hasn't changed in any way as a result of my having kids or being on a flex-time schedule.”

Methodology: Law360 surveyed U.S. law firms in early 2014 and received responses from roughly 380 firms with male and female attorney head count information. Only U.S.-based law firms were surveyed, and only head count numbers for U.S.-based attorneys were included in the results.

--Editing by Andrew Park.

All Content © 2003-2014, Portfolio Media, Inc.