

WorldatWork Research

Flexible Work Arrangements for Nonexempt Employees



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Executive Summary

Work is evolving at a dizzying speed in the United States. In the past decade, more work has started shifting to service- and information-based industries, inexpensive hand-held communication devices are pervasive, and the face of the workforce has changed dramatically. Today, the workforce is more diverse than ever, and it will include more hourly or “nonexempt” employees as the United States continues moving toward a service- and information-dominated economy.

But this evolution is not occurring without systemic challenges and disruptions. First, the way work happens in the United States seems to be changing more quickly and fundamentally than is the system of employment laws that was built to support it many decades ago. Thus, a key question has become, “How can employers, operating under a system of old laws, succeed in this new, rapidly changing work environment?”

The goal of this research was to develop a better understanding of how a new, smarter management model might be developed for dealing with the challenges of this work environment. Specifically, the study focused on the ability and limitations of nonexempt workers to participate in a work design that goes by many different names:

- Telecommuting
- Distributed work
- Alternative work
- Flexible work.

Regardless of the name assigned, in all cases these terms refer to people who are enabled to work outside traditional office facilities, sometimes permanently, and sometimes just a day or two per week.

In the past, this type of work design has been available primarily to professional, salaried (“exempt”) workers only. However, recent trends (including results from the present study) suggest that a growing number of firms are including nonexempt employees in this work design.

Fuel prices, the proliferation of connectivity devices

and employee demand for work-life balance have combined to drive the concept of “flexible work” to the top of today’s business agenda. In the survey brief “**Telework Trendlines 2009**,” WorldatWork reported that the number of U.S. employees who worked remotely at least one day per month increased 39% in two years from approximately 12.4 million in 2006 to 17.2 million in 2008. It is evident that flexible work arrangements are a key component of offering employees more control and freedom in their work patterns and lives.

There has been a significant body of best practices, policies and procedures developed for salaried employees in flexible work situations in recent years. However, very little work has been done regarding these types of work arrangements for nonexempt employees.

More than likely, this is because nonexempt employees operate within a more restrictive and prescriptive set of rules of regulations — and, therefore, liabilities and exposures — for employers that choose to provide alternative work designs and flexible management options. Indeed, nonexempt employees historically have been managed based on time accounting, and there are specific legal and regulatory requirements imbedded in that management system.

Drawing on survey data and the results of depth interviews with practitioners and thought leaders in the field, this report outlines concepts, lessons learned and best practices for enabling nonexempt employees to work in a flexible manner, and addresses some of the employment law implications for managing this set of employees in the 21st century American workplace.

Key Findings

The use of flexible work programs by nonexempt employees in the United States is more prevalent than previously known, according to the data in this study. Forty-five percent of survey respondents (n=61) reported their hourly employees participate in

alternative work programs (i.e., anything other than 40 hours per week in an assigned location). In addition, the three biggest industrial sectors represented in the survey were manufacturing, education and business services, each at about 12% of the total industries represented.

Perhaps not surprisingly, the use of technology to stay connected was prevalent among these nonexempt distributed workers:

- 73% reported using instant messaging.
- 63% use call forwarding and Web conferencing.
- 33% use video conferencing.

Despite the unexpected prevalence of hourly workers in flexible work programs, there is strong evidence that employers might be providing (or allowing) it in an ad-hoc manner:

- 39% said they do not put formal employer-employee agreements in place before allowing employees to pursue flexibility.
- 41% said they do not have an integrated strategy regarding employee flexibility.
- 44% reported they do not have a formal selection process in place to determine who should — and perhaps who should not — work remotely.
- 44% reported not having an evaluation process in place to assess technology effectiveness in these situations.

With regard to the infrastructure employers have in place to support flexible work for nonexempt employees, nearly 60% of respondents reported having the following policies and programs in place:

- Employee screening
- Position/duties task analysis
- Employee training
- Technology instruction
- Performance management
- Communication plan (employee and manager)
- Communication program (corporate).

Conversely, more than 50% of respondents indicated

Several keys to success for flexible work programs for nonexempt workers were reinforced.

their organizations do not have the following HR policies and programs in place for nonexempt workers:

- Ergonomic training
- At-home inspection
- Return-on-investment analysis
- Training/orientation for nonprogram members
- Peer networking program
- Planned activities for back-in-the-office time
- Career development plans for nonexempt employees
- Documented testimonials and success stories.

Key Conclusions

As with any research, this project produced both expected and unexpected findings. One major finding was that a higher-than-expected percentage of employers offer flexible work programs for nonexempt employees. Based on previous occupational survey data, the researchers expected to find only about 15% participation. (Work Design Collaborative LLC and WIRED West Michigan, 2007; Grantham and Ware, 2004) However, among the organizations that reported having alternative work programs, 87% of the organizations said they allow nonexempt employees to participate in those programs.

Another unexpected finding was how many respondents reported they did not have formal program policies and infrastructures in place to manage the flexible work programs being used. The absence of formality in these instances can create liability exposure, as well as potential employment-law compliance problems for companies.

Through the pre- and post-survey interviews of practitioners conducted, several keys to success for flexible work programs for nonexempt workers were reinforced:

- Planning
- Comprehensive policy development
- Training
- Evaluation systems based on performance measurement.

Looking forward, as flexible work programs grow

in scale and scope, both public policies and internal, organizational policies will become critical for human resources professionals. In addition, both human resources and management need to learn to use technology more effectively to support performance management for flexible nonexempt employees.

Finally, as more employees become separated in both time and space from their peers, HR and management might explore how social networking tools could be used to combat potential social isolation and keep distributed employees motivated and engaged. ●

Introduction

In the early part of the 20th century, as factory and other production work dominated the United States, a popular movement emerged to protect employees from inappropriate or inadequate pay scales and other abuses, such as unfair labor practices. This movement led to the passage of the Fair Labor Standards Act of 1938 (FLSA), through which two basic categories of employee were created in the United States: exempt and nonexempt.

Employees who would be “exempt” from FLSA regulations were those paid a set salary not directly linked to the number of hours they worked. These employees were paid to accomplish certain specific tasks or produce predetermined results. They would not be subject to FLSA requirements of overtime pay or regulations regarding when and where they performed their work.

By contrast, those employees who worked on an hourly basis were designated as “nonexempt” from the FLSA standards. Nonexempt employees are those who are eligible for overtime and required to take work and meal breaks in accordance with applicable federal and state employment laws.

Nonexempt employees are those who are managed based on time accounting or the number of hours they are “on the job.” While individual job categories also may include expectations of productivity levels, there are significant regulatory requirements regarding their treatment and the reporting of employer practices.

The 70-year-old basic requirements and two-employee category rubric of the FLSA have created a significant management challenge in today’s work environment. An increasing number of employers find themselves using time accounting to manage one group of employees and performance standards or a results-oriented approach with another. These differentiated management practices also tend to amplify the issue of perceived internal equity, or fairness, because everyone who works also has a life to manage, thus requiring some degree of flexibility in their work arrangements.

In the past decade, research has proven that the

ability for employees to enjoy some level of flexibility in their work is a powerful tool for enhancing retention, engagement, productivity and health. (Butler, et al., 2009; Corporate Voices for Working Families, 2005; Swanberg, et al., 2008).

But employers of all sizes increasingly face a challenge that is complex: How does one adequately comply with the rigidity of FLSA standards while simultaneously attempting to create a productive work environment that is flexible enough to both suit the needs of a 21st century workforce and respond to the pressures of global business competition?

The way work is accomplished today has changed more rapidly than the employment law that governs it. So, how can employers that rely on nonexempt workers successfully function within what seems to be increasingly archaic regulations when their reality is perpetually changing?

The good news is, there are answers. However, it takes planning, effort and an investment in resources. The findings of this research confirm that, from a risk-management perspective, the benefits of including nonexempt employees in distributed work programs far outweigh costs for most U.S. employers.

Literature Review: Flexible Work Arrangements

The American workforce and workplace have experienced dramatic changes in the past three decades. Single parents, dual-income couples and employees with caregiving responsibilities comprise a larger portion of the labor force than they have in the past. (Families and Work Institute, 1998 and 2003)

Likewise, the workforce is older and more ethnically diverse. (Toossi, 2002) The median age of U.S. workers in 2008 was 41 years, compared to 35 in 1978, and nearly 20% of the U.S. workforce now identifies itself as nonwhite. Trends suggest that Asian and Hispanic workers will continue to comprise a growing proportion of the workforce in the next few decades. (Toossi, 2002)

As U.S. workforce demographics have witnessed dramatic shifts, so has the nature of work and the types of jobs available. Michael Marmot (2006), an occupational health scholar, suggests that three specific factors have had a profound effect on the labor marketplace:

- Fewer jobs are defined by physical demands and more by a combination of psychological and emotional demands.
- Fewer jobs are available in mass production, and more in the service sector.
- A growing proportion of jobs are concerned with information processing due to computerization and automation.

Moreover, most of the job growth within the service sector has been primarily within occupations that rely on the nonexempt, lower-wage workforce.

Even though both the social demographics of the workforce and the nature of jobs have changed, change has come slowly to the fundamental assumptions on which workplace policies are developed. Some scholars assert that the mainstream view of wage-based work in the 20th century was built on the idea that men were the paid workers and women, who were not, met the needs of the family in the home. (Ackers, 1990; Williams, 2001)

In this view, paid employment for women was considered a strain on the family. In contrast, it was presumed that males had few family caregiving responsibilities and, therefore, were available for full-time work outside the home. This perspective created the foundation on which is constructed the contemporary organizational blueprints for job schedules, performance expectations and management operations.

Taking this argument further, other scholars suggest that the marketplace is organized around the “ideal” worker. (Williams, 2001) This ideal employee works full-time, willingly agrees to overtime, and takes minimal time off for caregiving or other family responsibilities. As a result, many workers today experience considerable strain in trying to meet the demands of their lives on and off the job.

Prof. Jennifer Swanberg, a work-life scholar at the University of Kentucky, has studied the changing nature of work and jobs in the U.S. economy. She suggests that organizational leaders need to re-examine the way work is organized and conducted. Swanberg has argued that common notions of work organization and job quality may not adequately characterize the

contemporary workforce and workplace.

To accurately determine the effects of a work environment on individual and organizational outcomes, Swanberg believes it is necessary to include factors that consider the work-family circumstances of contemporary working families, as well as the nature of the jobs available in the current economy. As such, contemporary concepts of organizational culture and work organization must include various forms of workplace flexibility as an integral dimension of the work environment.

Since the late 1990s, work and family scholars have recognized that work-life programs, such as child-care resources and referrals or on-site child-care centers, may not be as effective in minimizing the time burden associated with meeting the demands of contemporary work and family life as broader workplace practices (e.g., flexible work programs). (Allen, et. al., 2000; Pitt-Catsouphes, Kossek and Sweet, 2006) Workplace flexibility can be broadly defined in terms of how, when and where work gets done.

Workplace Flexibility 2010, a think tank of scholars and diverse groups, believes that workplace flexibility is best achieved through a combination of voluntary employer efforts and thoughtful public policy. According to this group of policy researchers, there are three broad categories of workplace flexibility:

- **Flexible work options:** alter the time and/or place that work is conducted on a regular basis, in a manner that is as manageable and predictable as possible for both employees and employers.
- **Time off:** provides leave from work for a defined time period, enabling people to address unexpected or ongoing personal and family needs.
- **Career exit, re-entry and maintenance:** addresses the needs of employees who, out of either necessity or personal choice, leave the workforce completely for a period of time but later need and/or want to re-enter the workforce.

Implementation of these forms of workplace flexibility varies by industry, job type and occupational classification. Hence, the focus of this project is to understand those differences, and specifically to understand workplace flexibility among nonexempt workers.

The wide variation in types of employee flexibility and the implementation of these programs makes this an important human-resource management issue. In the past, telework has primarily been made available to professional, exempt workers only. However, recent

trends (corroborated by the present study) suggest that a growing number of firms are including nonexempt employees in telework or distributed work arrangements.

In today's economic conditions, employers have survival mandates to reduce their cost of operation, attract and retain key talent and remain more innovative than the competition. The most recent study completed by the Family and Work Institute found, in part, that "there are new ways to make work 'work'" that benefit both employers and employees. (Families and Work Institute, 2008) In fact, the research shows that employees who work in flexible workplaces are more likely to:

- Be engaged in their jobs and committed to helping their organizations succeed
- Plan on staying with their employer
- Be satisfied with their jobs
- Exhibit better mental health.

Distributed work programs are one of the best ways to accomplish these sometimes-conflicting business goals. The literature illustrates this conclusion. For example, empirical studies show that distributed work programs can:

- Increase the employee-per-workstation ratio by 20%
- Reduce IT and power costs by up to \$3,000 per workstation per year
- Reduce workplace services costs (real estate, furniture, technology) by 40%
- Increase productivity by an average of 7%
- Save 5.3% in health care costs
- Reduce turnover and the costs associated with turnover by as much as 4.8%.

(Barber, 2007)

About this Report

This report and the research that supports it represent uncharted territory that most organizations will face as they struggle to integrate increasingly costly real estate resources with contemporary human-resource management policies. The combination of fuel prices, rapid adoption of connectivity devices that enable work from anywhere, and employee demand is driving the concept of "flexible work," regardless of what it's called, to the top of today's people strategies.

One major response to these pressures among employers is the increasing development and

implementation of work-life programs. But implementing these programs equitably — a precondition for maximum positive effect — also has become a major human-resource policy issue.

More than 17 million employees performed work remotely at least one day per month in 2008. (WorldatWork, 2009) That number is projected to increase to more than 25 million within five years. (Grantham and Ware, 2008) Flexible work has become a key component of emerging business strategies that offer employees more control and freedom in both their work patterns and lives.

Today, it seems that the nature of the exchange relationship, or "the deal," between employer and employee increasingly focuses on offering more job autonomy in exchange for higher levels of engagement, retention, productivity and wellness. ([Appendix A](#) provides a complete technical definition of these terms.)

With regard to treating hourly and salaried employees equitably, employers face limitations through the FLSA, which creates a unique set of liabilities and exposures for those employees who are nonexempt under the FLSA regulations.

However, some research suggests that offering nonexempt employees flexibility options similar to the ones offered to their exempt colleagues may provide greater benefit for employers than has been commonly understood. One recent study indicated that the availability of flexible work had a more positive effect on higher engagement and reduced burnout for nonexempt employees than for exempt workers. (Johnson, Shannon and Richman, 2008)

Companies are finding that the pressure to reduce costs, attract and retain key talent, and foster innovation requires the use of flexible or alternative work programs for employees across the board. (Grantham, Ware and Williamson, 2007) As a result, this research demonstrates that more hourly-based employees are being included in flexible work programs. However, while a significant body of best practices, policies and procedures has been developed for exempt employees, little work has been done to assess best — or even prevailing — practices regarding hourly employees.

This report focuses on the findings of an applied research project conducted across a large number of diverse companies and public-sector agencies. It documents both prevailing and best practices for enabling nonexempt employees to work flexibly. In addition,

the study identifies several critical employment-law implications regarding these types of programs. Experience indicates that many legal issues can be handled within the context of a training program and

a formal employee work agreement. Therefore, this report emphasizes training program designs for both employees and managers. ●

Methodology

The original data supporting this research report was derived from two primary sources: an online survey and in-depth interviews conducted by telephone, both pre- and post-survey.

Pre-Survey Interviews

Eight depth interviews were conducted in the course of developing the survey. First, executives from five organizations were interviewed in an open-ended format. The executives were asked for comments on initial survey drafts to ensure completeness and accuracy. Three experts in the work-life field also were interviewed for input on the questionnaire design. Results from all interviews were incorporated into the final questionnaire.

Survey

Work Design Collaborative (WDC) conducted an online survey to generate original data for this project. A mailing to WDC's Future of Work community of 2,000 members resulted in a total of 135 completed online surveys (a response rate of 6.8%). In addition, a call for participation in the survey also was posted on the WorldatWork Web site. Nearly 50% of the survey respondents reported employing more than 1,000 employees in their organizations. Thirty percent to 40% of the employees in the surveyed organizations were nonexempt. Respondent demographics are described in the next section, and the full survey questionnaire is in [Appendix B](#).

Post-Survey Interviews

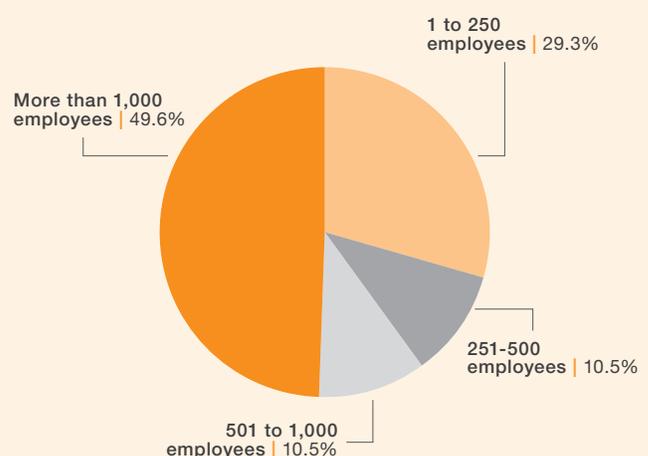
After closing the online survey, additional depth interviews were conducted with the approximately one dozen executives who indicated in the survey they would be willing to speak about the results and their organizations. Their insights and specific comments have been incorporated into the data analysis and discussion of findings section.

Demographics

Authors' Note: The sampling method employed with the initial sample often is called a "snowball" sampling, meaning it relied on referrals (or forwarding) from initial subjects to generate additional subjects. Although the authors are comfortable with both the sampling method and amount of response received, the statistical quality of the sample is difficult to gauge because the potential universe of respondents is unclear. As such, confidence intervals or margins of error cannot be offered for these data.

As noted, 135 executives and professionals completed the survey. Nearly half (49.6%) work in organizations that employ more than 1,000 employees; the sample also includes a reasonable representation of small and medium-sized organizations. (See [Figure 1](#).) In addition, the three biggest industrial sectors represented in the survey were manufacturing, education and business services, each at about 12% of the total. Admittedly, this survey sample under-represents the retail sector — these results should not be generalized to that sector.

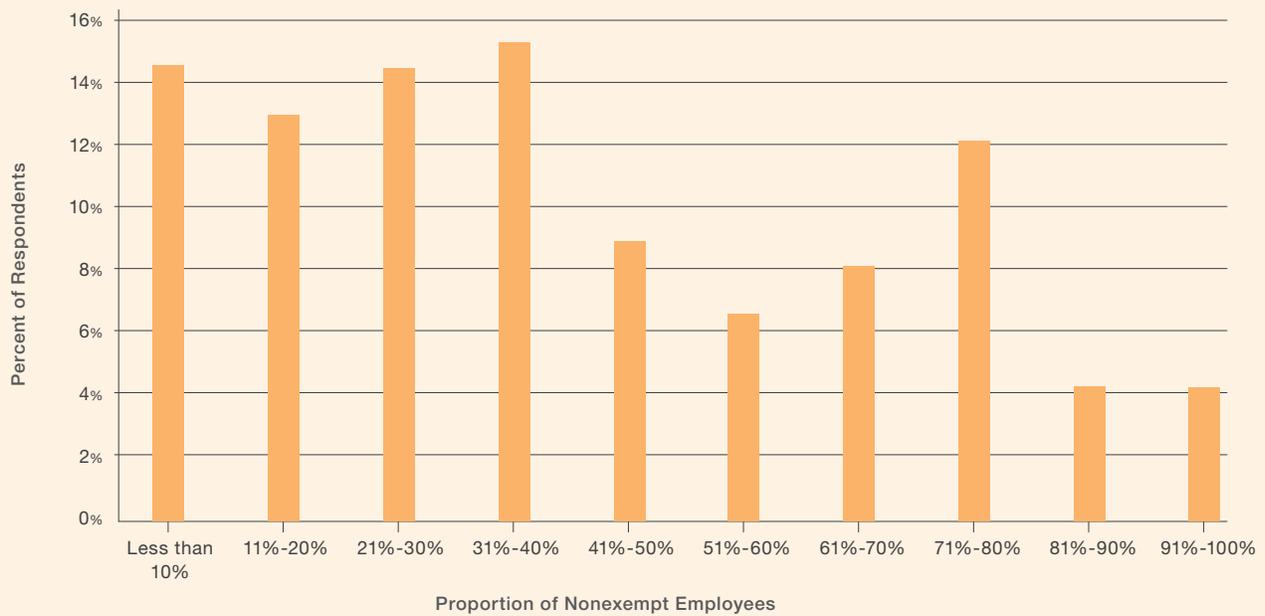
FIGURE 1: Organizational Size



The respondents reported a wide range of nonexempt employees in their organizations, with roughly 14% in the sample indicating that less

than 10% of employees were nonexempt, and a handful of organizations reporting more than 90% nonexempt. (See Figure 2.) ●

FIGURE 2: Proportion of Nonexempt Employees



Data and Analysis

Authors' Note: Findings presented represent all workers in the surveyed organizations unless specifically noted otherwise.

It seems that when many flexible work programs are launched within organizations, there is uncertainty about what to call the programs. Indeed, that several terms are used interchangeably in this report reflects the lack of a single, widely-adopted term. Although the preferred term for purposes of this report is “flexible work,” 23 respondents said they had labeled their program “telecommuting,” while another 20 respondents described theirs as a “flexible work program.”

While there is no right or wrong answer, the authors believe that organizations that label their program “telecommuting” probably reflect more traditional thinking. Over time, a shift toward words like “flexibility” and/or “distributed” might imply more sophistication and more benefits accruing to employees. Organizations should think carefully about the internal marketing message they want to impart to employees, taking the time to thoroughly consider the terms they use to describe or label their programs.

More than half (58.5%) of the organizations in the sample reported having currently-active alternative work programs. Almost 20% of those programs have been active for between four and six years for all workers. However, another 16.7% have had their programs running for less than six months. (See [Figure 3.](#)) Thus, this overall sample generally represents larger companies, and many have well-established programs.

With the total sample of 135 in the survey, 61 companies (45%) reported flexible work programs. This

finding is somewhat surprising; the authors expected the number to be much smaller, perhaps as low as 40% or less. (Work Design Collaborative LLC and WIRED West Michigan, 2007)

Although the number of employers that indicated nonexempt employees were eligible to participate in flexible work programs was perhaps higher than expected, the reality is that far fewer nonexempt employees actually participate in these programs. More than half of the survey respondents said that less than 10% of their eligible nonexempts are actually using the program. (See [Figure 4.](#))

On the other end of the spectrum, three organizations (5.8% of the sub-sample) reported 100% distributed work participation by their nonexempt employees. Because the survey responses were anonymous, the organizations at 100% cannot be identified but, presumably, they are small, virtual and/or location-less firms.

The number of nonexempt employees eligible to participate in flexible work programs, as well as the number of companies that indicated offering these options to nonexempt employees, was considerably larger than expected. These data raise the urgency of the importance of identifying, clearly articulating and promoting the types of human-resource management policies that are needed — and which policies are most effective.

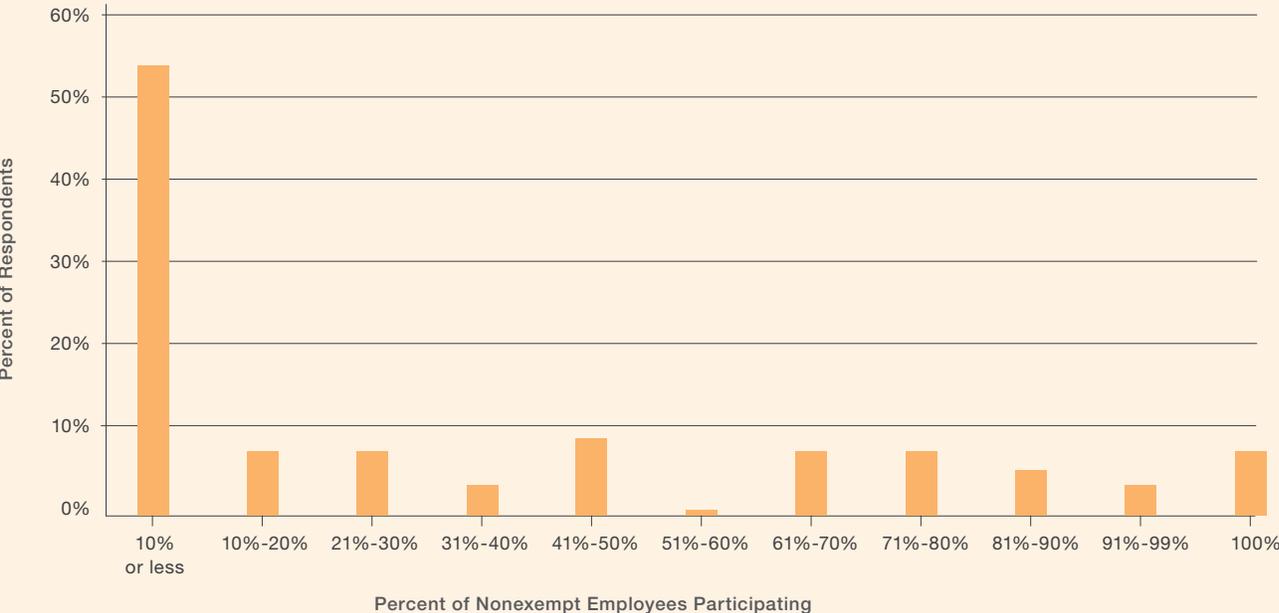
Motivation for Developing Alternative Work

When asked about the motivation behind the creation of their alternative work program or programs, a majority of respondents (61.4%) said they were motivated by the importance of “strategically” positioning

FIGURE 3: Age of Alternative Work Programs



FIGURE 4: Percent of Actual Participation in Flexible Work Programs by Nonexempt Employees



their organizations for success. This indicates that many of the organizations in the sample might be unique by their advanced strategic HR orientation. Although answer choices such as “nice to have” and “cost reduction” were provided, most respondents did not choose these particular options. Thus, the majority of respondents seem to be positioning their flexible/distributed work programs as part of a key talent acquisition and retention strategy. Presumably, they are marketing their flexible work options to either gain or maintain the enviable position of employer of choice.

The majority of respondents seem to be positioning their flexible/distributed work programs as part of a key talent acquisition and retention strategy.

work programs for a variety of client organizations, this finding is somewhat disturbing. Perhaps most surprising is that more than half of the respondents indicated that their employer is not doing a return-on-investment analysis to guide program performance. A nearly identical percentile of respondents is, in the authors' view, not developing adequate infrastructure — training for nonparticipants, peer networking and career development plans for remote/flexible employees, etc.

In our empirical case study analyses, flexible work programs are most successful when HR executives and professionals design and implement comprehensive programs that attend to the needs of all affected employees and managers. Employers that choose to focus solely on direct participants likely will encounter unexpected difficulties, such as workers' compensation benefits claims and at-home work-related injury liabilities.

Infrastructure for Flexible Work

Approximately 60% of the respondents reported that certain items support their flexible work programs:

- Employee screening
- Position/duties task analysis
- Employee training
- Technology instruction
- Performance management
- Communication plan (employee and manager)
- Communication program (corporation).

Many organizations also are moving toward implementing several of the most common program features. [Figure 5](#) shows the 10 most popular features arrayed in order of their “maturity” across the organizations in the sample.

In the authors' experience, these program features are typical for effective alternative work programs. However, a more complex picture arises when considering which program features are often not in place according to the respondents.

More than 50% of the respondents said their distributed work programs do not include:

- Ergonomic training
- At-home inspections
- Return-on-investment analysis
- Training/orientation for program nonmembers
- Peer networking program
- Planned activities for back-in-the-office time
- Career development plans for nonexempt employees
- Documented testimonials and success stories.

Based on the experience of WDC in setting up flexible

Policy-Level Gaps

In aggregate, the following four items show an unexpectedly casual orientation by many employers toward their flexible-work policies:

- **Lack of a formal selection process:** 43.5% said they do not have a formal process in place to decide who is (and is not) a good candidate for flexible work.
 - **Absence of formal employee “contract” for the flexible worker:** 39.1% do not have an agreement or written understanding between employer and employee.
 - **Lack of a strategic workforce strategy:** 40.9% reported none.
 - **Inability to monitor technology effectiveness:** 44.2% do not have a technology evaluation process.
- Each area indicates a need for many employers to engage in additional policy-level work. The absence of a documented selection process, coupled with the lack of a formal employee agreement (especially with nonexempt workers), can leave a firm open to liability. In addition, the absence of an integrated workforce strategy and a way to evaluate technology effectiveness makes it difficult to develop that all-important “corporate agility.” (Grantham, Ware and Williamson, 2007)

Most Effective Program Aspects

More than 35% of respondents reported the following aspects of their distributed work programs, respectively, to be “very effective”:

- Employee screening
- Position duties/task analysis
- Employee training
- Manager training
- Technology-use introduction
- Performance management
- Communication programs.

These findings seem relatively straightforward; they describe what might be considered a “core” set of offerings in the implementation of a flexible work program. Understandably, the program components that respondents indicated they were not using, such as contracting, were seen as less effective.

Most Valuable Features

As noted, these data suggest that many organizations implement flexible work programs for nonexempt employees for strategic reasons. Most of their creators emphasize the benefits that can accrue to employees,

while probably also closely watching the attract/motivate/retain value to the employer. Indeed, the benefits of flexibility and the value of time-shifting for the employee were reported as top choices of a large number of respondents (17 of the 36 responses to this question).

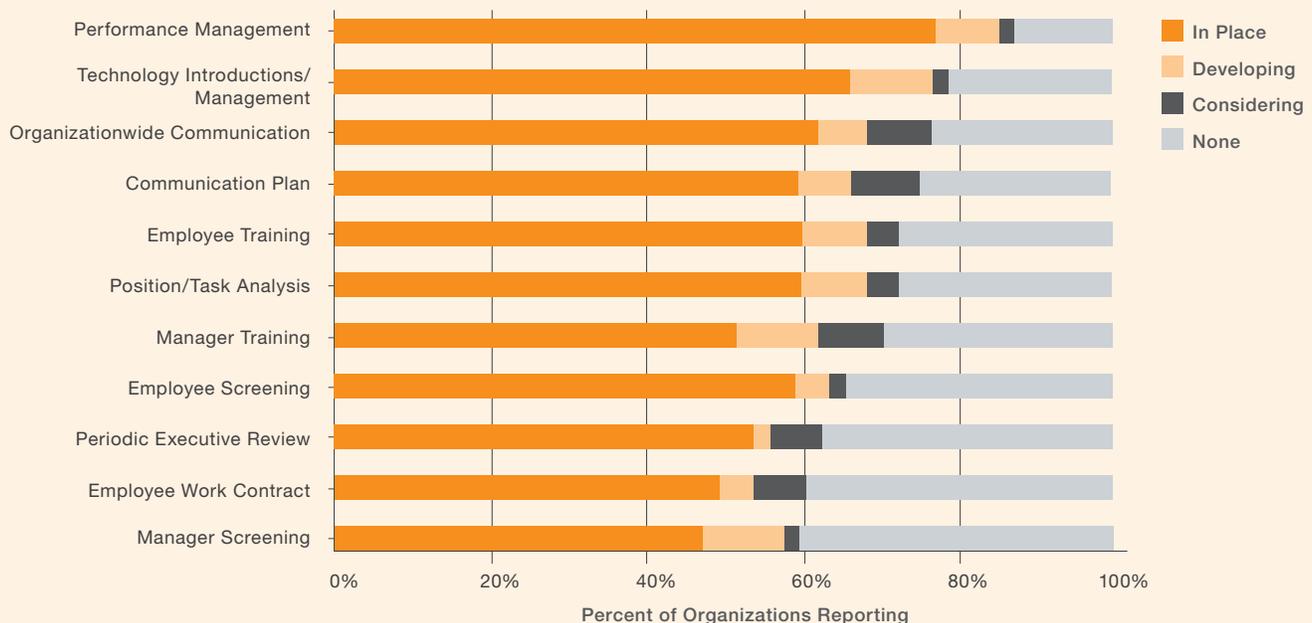
From the employer side of the equation, two respondents specifically mentioned an ability to attract talent from distant geographical areas. Here are two representative open-ended responses:

- “Flexibility makes the company more attractive.”
- “It’s great for government contracts because of the accountability.”

One interviewee commented:

- “Several of our best call-center employees have gotten alternative work arrangements established specifically for them because of their special needs. In several cases, a spouse moved and our employee wanted to keep working. So we helped them set up their home offices, we arranged to have calls routed directly to them, and it’s worked out great. They still have a job and we’ve retained good, productive people.”

FIGURE 5: Maturity and Acceptance of Most Common Program Features



This quote seems especially relevant and underscores that forward-thinking companies might benefit from emphasizing flexible work. It is important to recognize that good performance management systems actually increase accountability and transparency.

Overall Assessment of the Flexible Work Programs

Companies that have implemented flexible work programs that include training and performance systems frequently report the programs to be either “effective” or “very effective” (11 out of 26 respondents). Another eight respondents reported that it is “too soon” to evaluate.

This response is perhaps a reflection of the bifurcated sample, which contains an equally large number of participants who have mature flexible work programs and those who are early in the process of designing and/or implementing flexible work programs. (See Figure 3.)

Best Practices

To dive a little deeper into which program components really work, the depth interviews included a question about best practices. What came back in response was the advice of experienced flexible-work program managers.

The following comments are some of the central messages that should be kept at the forefront for both employers and managers who are either considering or implementing distributed-work programs:

- “Have a program that is formalized!”
- “You need to have managers onboard first.”
- “Doesn’t work for all my employees.”
- “Do a legal review of policies — especially with nonexempts.”

There also was a “how to do it” message that came through frequently from these experienced managers:

- “The most important thing: Train the supervisors.”
- “Basic policies are important, but try to avoid writing policies for every situation and every employee; otherwise, it becomes never-ending.”
- “We follow the old (IT) systems development life cycle as a way of thinking: evolve and adapt as needed.”
- “We have a whole portfolio of flexibility options; it’s up to employees to apply. Then, if the manager approves, they can do it. The basic question is does the *job* fit — would at-home work work in

this case? And the ability to work flexibly varies all over the place. Our decision also depends on someone’s current performance.”

- “The most important factor here (at the university) is the culture — (our home city) is more formal than many places, and our admin staff are clearly on a lower status plane than the faculty. So we have to be careful and thoughtful about it. Some admin jobs are there because they have to interact every day with students, so we can’t offer work-at-home to everyone.”
- “Our job is helping managers keep their minds open to all the possibilities; they need a lot of coaching about making expected end results very clear and explicit. Of course, we should have been doing that all along!”

Prevalent Types of Flexible Work Technology

Historically, technology has been touted as the major barrier to implementing flexible work programs for both exempt and nonexempt employees. Because of this historical bias, several questions were included in the survey to explore the issue more deeply in the context of today’s ubiquitous Internet access.

A substantial 83% of respondents indicated they provide laptop computers to nonexempt workers in their flexible work programs. In addition, extra telephone/computer lines are provided or paid for by 35% of employers, while another 35% subsidize high-speed bandwidth connections. Forty-two percent of respondents provide printers to flexible work employees.

Instant messaging is being used by 73% of the sub-sample who have nonexempt distributed workers. Call forwarding and Web conferencing were reported by 63% of the respondents, while 33% said they use video conferencing.

These usage numbers are higher than typically found in broader-based studies of technology use. The researchers anticipated responses of approximately one-half to one-third of what the data show. (Ware and Grantham, 2009) This seems to be an area that deserves further exploration, especially around the types of network access and accompanying security requirements.

Comments from Post-Survey Interviews

The limits of a survey questionnaire typically do not allow researchers to gain a complete or thorough

understanding of the situation being studied. Therefore, to supplement the survey findings, after the data were analyzed a series of in-depth interviews were conducted with managers who have direct experience with nonexempt employees in flexible work programs. Their perspectives and comments are particularly instructive.

The California Factor

One major motivation for conducting this study was WDC's experience in developing a flexible work program for a large employer in Southern California. During the post-survey interviews, a number of practitioners underscored that California, Alaska and Nevada have perhaps the most stringent requirements regarding the management of nonexempt employees. As one interviewee said, "If you can do it in California, you can do it anywhere."

FLSA Compliance Issues

Conversely, the "culture program manager" for a national retail chain not based in California noted, "The nature of (nonexempt) work is different; there are tough legal issues. Federal law requires that their work be directed by someone else, and that's clearly a more difficult situation when they're not in the office."

Indeed, as noted earlier in the study, these certainly appear to be *the* core issues with regard to flexibility for nonexempt employees: the time reporting and supervision requirements imposed by the FLSA.

However, interview comments indicated that, today, through the use of the Internet and Internet-based work, employers have an easier ability than perhaps ever before to establish a reliable means of tracking employee time worked. Many employers strive to establish a relationship between an employee being "online" and his/her "work time," and they are helped in this regard with Internet tools now widely available for real-time reporting.

In addition, there are several technologies available that can be integrated into an employee-portal approach that assist with several of the time reporting and communication challenges raised by having nonexempt employees working outside the office without full-time supervision. In interviews with practitioners, Avaya's IP-based "softphone" and Microsoft's "Office Communicator" were specifically mentioned

as ways to provide security and instant messaging capabilities.

The Human Side

Other, more overarching comments received in the post-survey interviews spoke to the human side of flexible work:

- "Social isolation can be a problem. We teach our employees to know when they need to reach out to teammates and supervisors."
- "(Nonexempts working in a distributed mode is) more of a problem for managers than workers."
- "The secret sauce is a combination of person, task and manager. You need a person who can stay focused, work that has measurable output, and a manager who isn't threatened."

Unexpected Adaptation

Past research with exempt employees has repeatedly shown that people start finding ways to "reengineer" the business processes they depend on about 18 months after they begin working in distributed environments. (Grantham, 2000) Thus, it was no surprise to discover comments regarding the same kind of thing occurring with nonexempt employees working remotely. One program manager said her biggest surprise was the amount of innovation the employees have introduced: "They had answers to business problems we didn't give them credit for understanding."

Training

Another recurrent theme concerned employee training for this type of work. The subject seemed to keep coming up as a topic in the interviews, especially regarding manager training. Several interviewees noted that, just because someone is a good manager in a traditional office setting, it does not mean the person will be a good manager in a remote-employee situation. Many of the interviewees urged employers to design pilot remote-work programs to help the whole organization learn by doing, and emphasized coaching managers when they start working with remote employees.

All too often, interviewees indicated that old management systems and labor laws just do not support new, flexible ways of working. One respondent reported that his existing payroll system could not support nonexempt employees reporting a different number of work hours each week. This comment provides a

good case for why distributed-work implementation teams must be multi-disciplinary, so they can confront and solve unexpected problems such as this, which seems to be at the intersection of HR policy and IT systems.

All of the survey data and interviews conducted for

this project support a conclusion that these kinds of programs must be carefully thought out, supported by formal policies and systems (especially given the legally mandated time reporting requirements for nonexempt employees), and introduced as part of a larger change management program. ●

Directions for Future Research

At the conclusion of the survey, as well as in the post-survey interviews, participants were asked which policy areas deserved the most attention going forward. Five high-level areas were identified that point toward new research questions and policy development issues:

- How to accurately track time and overtime for remote nonexempt employees
- How to potentially include some and exclude other nonexempt employees from distributed work
- What to do with the myriad questions and issues regarding employees who do not want to participate in distributed work
- How to effectively deal with the problem of social isolation for remote workers
- How to teach people to form and manage their own social networks (including both supervisors and co-workers) in these situations.

The authors believe none of these issues should prohibit companies from moving toward flexible work programs, nor do they suggest the exclusion of nonexempt workers from participation. However, these questions do re-emphasize the requirement for careful thought and the design of management policies, practices and

systems that support alternative work arrangements.

Tracking overtime, for example, can easily be blended into a technology support platform that measures online work, coupled with periodic audits. The desire to exclude some nonexempt employees raises the issue of putting a formal participant selection process in place that ensures uniformity and fairness. Remember that 43% of the survey respondents who had distributed work programs in place for nonexempt employees did not have any formal processes for determining which jobs — and, therefore, which employees — were eligible.

Finally, dealing with social isolation and the resentment of nonparticipants might be addressed by considering the last question regarding social networks — which is perhaps more of a recommendation than a question. The burgeoning area of “social network management” is ripe for exploration in the work context as more distributed-work programs are implemented, and more sophisticated social networking applications become available. The social network phenomenon has perhaps been an invisible aspect of work culture to date, but it is one that the authors believe becomes far more critical in a distributed-work environment. ●

Implications for Human Resources Professionals

Following is a summary of HR management issues regarding nonexempt employees in distributed work settings, alongside a set of potential policy-based solutions taken from the literature review and data and interviews collected for this study. ●

Rewards-Related Practices Used by Respondents' Companies

HR Management Issue	Recommended Solution
Accurately tracking work hours	Use technology to track and document work hours. Embed software that signals remote employees when to start and stop work activities. Change the day and hour on which the workweek starts to accommodate FLSA requirements.
Overtime	Use logon/logoff routines with passwords and automatic supervisor notification to monitor overtime. Pre-approval can be provided with an electronic audit track.
Work breaks	Pop-ups in software that remind employees of break times. Some software features "lock out" functions that prevent data entry or retrieval during break times.
Productivity	Develop written performance plans with monthly or quarterly progress reporting that is verified by first-line supervisors and rolled up to operational division levels.
Ergonomics/adequacy of remote (home) work environment for safety, health	Provide onsite (remote) training, bundled with delivery of office equipment. An alternative is an online, searchable database and Frequently Asked Questions. Use of the database should be logged and monitored for compliance purposes. Develop an at-home checklist to verify software, hardware and safety conditions.
Union support	Offer specialized training and evaluation of each employee's ability to perform in an alternative work environment — enhancing "employability." Treat as a new competency.
ADA accommodation	Alternative work programs can be certified as a workplace accommodation provided they are part of an approved, documented program available to all.

Rewards-Related Practices Used by Respondents' Companies

HR Management Issue	Recommended Solution
Environmental effect	Develop online tracking of employee travel (or nontravel) patterns. Embed tracking in the performance reporting system. Conduct monthly calculations and produce auditable reports.
Recruitment	Use documented success stories and the publication of program elements as part of recruitment. Provide social networking applications to employees – overseen by HR staff.
Retention	Position distributed work programs as a “perk” as compared to other companies. These programs can provide competitive position for key employees.
Workplace liability	This is a contractual obligation. Liability issues must be spelled out and documented in a signed employment agreement.
Cost sharing	Ensure the organization has a written policy regarding roles and responsibilities. Who pays for internet cable/dial-up service? Phone bill? Maintenance, purchase of software and hardware required for job (e.g., fax, printer, copier), etc.?

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Appendix A

Definition of Terms

exempt employee

Employees to whom the minimum wage and overtime provisions of the Fair Labor Standards Act of 1938 (FLSA) do not apply due to the types of duties performed. Includes executives, administrative employees, professional employees and those engaged in outside sales, as defined by the FLSA.

Fair Labor Standards Act of 1938 (FLSA)

U.S. federal law governing minimum wage, overtime pay, child-labor and record-keeping requirements. The law covers all full- and part-time workers in the United States.

flexible work arrangement

Also referred to as distributed work, telework, telecommute, alternative work.

An alternative that provides employees with the option to meet work requirements through nontraditional scheduling (e.g., telecommuting, compressed workweek, job sharing, part-time, etc.) and generally enjoy flexibility in both working location and hours. Many employees work from home, while others utilize telecommunications technology to work from coffee shops, libraries or a variety of other locations.

flexible work schedule

An employee work schedule in which the workday is divided into core and flexible time, and that permits an employee to choose his/her arrival and departure times during the flexible time period. Also known as “flex time.”

nonexempt employee

Employees to whom the minimum wage and overtime provisions of the Fair Labor Standards Act of 1938 (FLSA) do apply.

Appendix B

Survey Instrument

Survey Regarding Nonexempt Teleworkers The Work Design Collaborative LLC

1. How many employees does your organization have at your location?
2. Approximately what percent of the employees at your location are nonexempt (i.e., paid an hourly wage)?
3. How many locations does your organization have in total?
4. Does your organization have an alternative work program?
5. What term do you use to describe your telework program or policy (e.g., telework, telecommuting, flexwork, etc.)?
6. How long has your program been in place?
7. Does your organization allow nonexempt employees to participate in your alternative workplace program?
8. Approximately what percent of your nonexempt employees are eligible to participate in the alternative work program? (Enter a number between 0 and 100.)
9. Approximately what percent of eligible nonexempt employees are actually participating in the alternative workplace program? (Enter a number between 0 and 100.)
10. Would you characterize your employer's inclusion of nonexempt employees in the alternative workplace program as primarily strategic or as programmatic? That is, is it perceived as part of an overall workforce management strategy designed to attract, motivate and retain talent required for success, or is it a "nice to have" or an accommodation to (some) employees at management discretion?
11. Is this alternative workplace program a stand-alone policy or is it part of a larger set of workplace flexibility options, compressed workweek, job sharing, etc.?
12. What economic sector does your organization operate in? (Check only one.)
13. Please indicate what types of human resource management policies and programs your organization has, or is considering, to support and guide implementation of your alternative workplace program for nonexempt employees.

(Matrix column headers: In Place/Developing/Considering/None)
 - Employee screening
 - Manager screening
 - Position duties/task analysis
 - Formal selection
 - Employee training
 - Managing training
 - Technology introduction and use
 - Ergonomic training
 - Employee work contract
 - At-home inspection
 - Performance management
 - Return-on-investment analysis
 - Periodic executive review
 - Training/orientation for nonprogram members
 - Peer networking program
 - Pre-planned activities for back-in-the-office time
 - Communication plan (employee and supervisor)
 - Organizationwide communication about alternative work program
 - Career development plan for teleworkers
 - Strategic workforce strategy (where are workers we need?)
 - Technology effectiveness evaluation(s)
 - Online telework kit
 - Testimonials, success stories, etc.
 - Database of "experts" to contact for assistance
 - Champions/leaders/managers who serve as role models and mentors
 - Other (please specify)
14. What are the most valuable features of your program? Please describe them briefly.
15. For the programs that you have in place, how effective have you found them?

(Matrix column headers: Very Effective/Somewhat Effective/Not Effective/Do Not Have This Program)

- Employee screening
 - Manager screening
 - Position duties/task analysis
 - Formal selection
 - Employee training
 - Managing training
 - Technology introduction and use
 - Ergonomic training
 - Employee work contract
 - At-home inspection
 - Performance management
 - Return-on-investment analysis
 - Periodic executive review
 - Training/orientation for nonprogram members
 - Peer networking program
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 - Communication plan (employee and supervisor)
 - Organizationwide communication about alternative work program
 - Career development plan for teleworkers
 - Strategic workforce strategy (where are workers we need?)
 - Technology effectiveness evaluation(s)
 - Online telework kit
 - Testimonials, success stories, etc.
 - Database of “experts” to contact for assistance
 - Champions/leaders/managers who serve as role models and mentors
 - Other (please specify)
16. Please describe briefly your overall assessment of the effectiveness of your organization’s approach.
17. Nonexempt employees present special human resource management challenges in a number of areas. Please indicate specifically how your organization is addressing the following challenges with regard to establishing alternative workplace options in the telework environment (please check all that apply).
- Formal policy
 - Training
 - Contractual arrangement
 - Periodic review
 - Supervisory performance measurement
 - Records for documenting overtime work
 - At-home work expense deductions for taxes
 - Workplace injury
 - Equipment maintenance
 - At-home energy use
 - Third-party liability
 - Work breaks
 - Telework as an ADA accommodation
 - Technology security (e.g., computers)
 - Data security (hard copies)
 - Data security (electronic)
 - Continuity of operations program
 - Using telework as a recruitment incentive
 - Child care during work hours
 - Reimbursement for business use of telephone
18. Which of the following technologies have you incorporated to assist teleworkers?
- Instant messaging
 - Call forwarding software
 - Videoconferencing
 - Web conferencing software
 - Other
19. Which of the following equipment does your company provide (i.e., pay for) to your employees?
- Router
 - Laptop PC
 - PC with monitor
 - High-speed bandwidth
 - File cabinet
 - Desk
 - Telephone/computer line
 - Chair
 - Telephone
 - Shredder
 - Printer
 - Other
20. Are there any special features of your program that you feel would provide best practices or “lessons learned” for others thinking about

implementation of these kinds of programs for nonexempt employees? Please describe them in detail.

21. Are there any other questions we didn't ask, or are there other unique challenges for nonexempt teleworkers we haven't mentioned, that you believe are important for us to consider?
 22. Would you be willing to participate in a brief (15 minutes) personal interview on this topic?
 23. Thank you for agreeing to participate in a brief personal interview. Please enter your contact information here so we can contact you.
-



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Co-founder,
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Charles E. Grantham, Ph.D., is co-founder of the Work Design Collaborative, a small “think and do” tank in Prescott, Ariz. With more than 25 years’ experience, he is recognized as an international expert in designing information and organization systems that support new forms of work.

Grantham received his Ph.D. in sociology from the University of Maryland in 1980. He also has an honors degree in psychology and another in urban

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James P. Ware, Ph.D.
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James P. Ware, Ph.D., is co-founder of the Work Design Collaborative and its major productions, the Future of Work research program, the Community Design Institute, and the Future of Work Agenda newsletter. He has more than 30 years’ experience in research, executive education, consulting and management, including five years on the faculty of the Harvard Business School.

His most recent book, *Corporate Agility: A Revolutionary New Model for Competing in a Flat World*, co-authored with Charles Grantham and Cory Williamson, addresses the need for organizations to coordinate and integrate HR, IT and CRE/ facilities to develop new business capabilities for competing in a flat, global economy.

Ware also is the co-executive director of the Workplace Innovation and Performance Network, a collaborative learning consortium run by Executive Networks; is principal author of the “Future of Work” blog; and is a regular contributor to “The AppGap,” a multi-author blog focused on the future of work and the workplace.

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Swanberg is widely published, has been featured as a work-life expert in *The Wall Street Journal*, the *Boston Globe*, and on CNN, MSNBC and NPR news programs. She has been recognized by the Alliance of Work-Life Progress (AWLP) as one of the profession’s Rising Stars, her research has been honored by the Rosabeth Moss Kanter Award for Excellence in Work-Family Research, and she is the work-life columnist for *Business Lexington*, Lexington, Ky.’s premier business publication.

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