

To: NVCA, HR Policy Subcommittee
From: Proskauer Rose - Jeremy M. Mittman, Irina Constantin, and Elaine H. Lee
Miller Law Group - Walter Stella and Emi Gusukuma
Date: March 7, 2017
Re: Human Resources (H.R.) Policies

Memo

**National Venture Capital Association
Sample H.R. Policies for Attracting and Retaining Diverse Talent**

Disclaimer: Please note that information contained in the sample policies included here is provided for informational purposes only; it does not constitute legal advice and should not be treated as such. Organizations referring to these sample policies should consult legal counsel for advice on implementing these policies. Language highlighted in yellow indicates where a firm may add its own preferred language or remove the section, so as to allow greater flexibility and to demonstrate areas where policies can be tailored to a firm's needs or preferences.

Preface:

The sample policies included in this memo focus on fostering diversity and inclusion in venture capital firms. **These policies are not a replacement for and do not constitute a comprehensive set of H.R. policies or an employee handbook; these are policies geared more towards attracting and retaining diverse talent at venture capital firms.** The list is by no means exclusive — these policies are merely a springboard for further ideas and action to advance diversity and inclusion in our industry. We know that no two firms are alike and encourage you to adopt and/or adapt these policies in a way that fits the business reality and culture of your firm.

You will note the absence of certain legally required policies, such as those related to the sexual harassment in the workplace, or those governing family and medical leave. While such policies may have an effect on diversity and inclusion, they must be tailored based on the applicable law, which often differs from state to state. In addition, you may consider implementing additional policies that may foster diversity even though they are not included here, such as unlimited paid time off, family/medical/caregiver leave that goes beyond what is legally required. We encourage you to discuss these and other similar policies with your counsel.

And, finally, we encourage venture capital firms to share these policies with their portfolio companies as appropriate. Most of them can be easily adapted to a traditional company structure. Together, we can make a difference.

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I. Mission Statement

At our Firm we are committed to [building a workplace][creating a work environment] in which everyone is empowered to develop, to contribute, and to succeed. As a Firm, we see diversity and inclusion as the right thing to do. We strive to attract, invest in, and develop the talents of diverse people who reflect the society and community in which we live and do business. Creating an inclusive environment where all employees are engaged and performing at high levels, and where differences in outlook, perspective and background are seen as adding value, is a core element of our strategy. Enhanced business relationships, greater innovation, increased productivity, profitability and enhanced portfolio company relationships are among the benefits of the diverse and inclusive culture we [seek to build][are building] at our fund.

II. Non-Discrimination Policy

We are committed to maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. We expect that all relationships among persons in the workplace will be free of bias, prejudice and harassment. Therefore, it is the firm's policy to ensure equal employment opportunity without discrimination or harassment on the basis of race; color; religion or creed; sex (with or without sexual conduct); age; disability; military or veteran status; national origin or ancestry; citizenship status; genetic information; [marital and partnership status; sexual orientation; gender identity or expression; credit history; unemployment; status as a victim of domestic violence, stalking or sex offenses; height; weight; arrest or conviction record; affiliation with a spouse or domestic partner falling within the protected categories of this Policy;]¹ or any other characteristic protected by law. The Firm prohibits and will not tolerate any such discrimination or harassment.

III. Recruiting Strategy

We believe in treating each applicant for employment fairly and with dignity, and are committed to actualizing our Mission Statement in our recruiting strategy. The right way to attract, retain, and develop the best talent in our industry who share our passion is to base our employment decisions on merit, experience, and potential, without regard to race, color, national origin, sex, pregnancy, marital or domestic partner status, sexual orientation, gender identity or expression, age, religion, physical or mental disability, military or veteran status, family care status, or any other characteristic protected by federal, state or local law, and we pledge to do so.

[OPTIONAL: Everyone involved in the sourcing and selection work (e.g., recruiters, interviewers, hiring managers) will be trained on our Mission Statement and Recruiting Strategy and must commit to furthering the same.]

[OPTIONAL: When feasible, we will partner with organizations with proven track records in identifying diverse pools of talent to recruit for openings with the Company.]

¹ The highlighted characteristics are protected under the laws of some states.

[OPTIONAL: We will work to ensure that job listings are strategically placed so as to ensure a diverse applicant pool.]

IV. Childcare Leave Policy

Note: it is possible to distinguish between job classifications (for example, between investing and administrative staff in terms of the benefits to be provided). As with any distinction you make between employees, you are encouraged to first consult with your counsel.

The Company offers a number of weeks of paid childcare leave to employees who will be the caregivers of a child, following the birth, adoption or foster care placement of the child. The term “child” for the purposes of this policy is meant to include, collectively, twins, triplets, etc. Subject to the Company’s business needs, employees [who have been working for at least # months when the paid childcare leave period would begin] are eligible for up to # weeks of paid leave if they are the child’s primary caregiver or up to # weeks if they are the secondary caregiver. “Primary caregiver” means having the main responsibility for the full-time care of a child immediately following the birth, adoption or foster care placement of the child.

In all cases, paid childcare leave must be used within 12 months after an employee becomes eligible for it. If not used, it will be forfeited. Paid childcare leave may not be taken intermittently, and it is inclusive of any short-term disability absence due to pregnancy or childbirth. Further, paid childcare leave does not extend, and runs concurrently with, any period of leave available under the Family Medical Leave Act (“FMLA”) or similar state laws.

During any paid child care leave period, employees will continue to receive all benefits previously provided, as they exist from time to time, on the same terms and conditions as other employees and will be eligible for salary increases and bonuses, which may in some circumstances be pro-rated in accordance with the law.

In addition to the above-described leave, employees may request additional leave without pay and/or use any accrued vacation time after any period of paid childcare leave, subject to the approval of their supervisors. In the case of vacation time use, such time would run concurrently with any available unpaid leave under the FMLA or similar state laws.

San Francisco Paid Parental Leave Policy²

The Company complies with the San Francisco Paid Parental Leave Ordinance (PPLO), which requires employers to supplement California Paid Family Leave (PFL) benefits, subject to specified limits, for up to six weeks when an eligible employee takes leave to bond with a new

² The San Francisco Board of Supervisors passed the Paid Parental Leave Ordinance (PPLO) in April 2016. The ordinance requires employers to provide supplemental compensation to employees who are receiving California Paid Family Leave for purposes of bonding with a new child through birth, adoption, or foster care placement. During the leave period, covered employers are required to provide supplemental compensation so that the PFL compensation plus the supplemental compensation equals 100 percent of your gross weekly wage. Employers with 50 or more employees must comply with the ordinance by January 1, 2017; employers with 35 or more employees by July 1, 2017; and employers with 20 or more employees by January 1, 2018.

child. This is a wage-replacement benefit during an approved leave of absence for bonding purposes. This provision does not create a separate or new leave right but is available to an employee during a new child bonding leave pursuant to the Firm's Leave of Absence Policies

Eligibility

To be eligible, an employee must:

- have commenced employment with the Firm at least 180 days prior to the first payable day of his/her leave under the CA PFL program;
- work for the Firm at least 8 hours per week in San Francisco, and at least 40% of the employee's total weekly hours are within San Francisco; and
- be eligible to start a bonding leave and to receive PFL wage-replacement benefits under the California PFL law for the purpose of bonding with a new child.

Supplemental Compensation and Preconditions

The state PFL benefit pays up to a certain percentage of an employee's gross weekly wage, up to a statutory cap. Pursuant to the PPLO, the Firm will pay the employee "supplemental compensation" to replace the other portion of the gross weekly wage, up to the statutory cap and for a maximum of six weeks. In no case may the combined total of PFL benefits and supplemental compensation exceed 100% of an employee's gross weekly wage. The amount of supplemental compensation will be determined in accordance with the PPLO requirements.

[The Firm will apply up to two weeks of accrued and unused vacation against the supplemental compensation amount during the leave period. An employee shall also be required to use up to two weeks of accrued and unused vacation prior to the employee's initial receipt of CA PFL benefits.]

An eligible employee who has applied for California PFL benefits must satisfy all three of the following preconditions in order to receive supplemental compensation:

1. Submit the San Francisco Paid Parental Leave Form to the Firm, within a reasonable period of time after receiving the EDD Notice of Computation. The Paid Parental Leave Form is available from Human Resources.
2. Agree, by signing in Section 3 of the Paid Parental Leave Form, to reimburse the Firm for the full amount of supplemental compensation paid that if s/he voluntarily leaves the Firm's employment within 90 days of returning from the leave. The Firm hereby notifies employees that it will require such reimbursement.
3. Comply with Option 1 or Option 2 (or both) under the PPLO, as follows:
 - Option 1: Provide the Firm with a copy of the Notice of Computation from the EDD as soon as it is received, and submit a copy of the EDD Notice of Payment when the employee receives the first CA PFL payment from the EDD.
 - Option 2: Provide the EDD permission to share the employee's PFL weekly benefit amount by checking the appropriate box on the EDD's PFL claim form; check the appropriate box on the Paid Parental Leave Form indicating

that the employee is selecting Option 2; and notify the Firm upon receipt of the first CA PFL payment from the EDD. The Firm will contact the EDD to obtain the employee's weekly benefit amount – but note that depending upon the EDD's response time, there could be a delay in obtaining this information, which will result in a delay in payment of the supplemental compensation. For this reason, the Firm encourages employees to utilize Option 1.

Once all preconditions are satisfied, the Firm will make a good faith effort to make the first supplemental compensation payment on the payday for the next full pay period following the employee's satisfaction of the preconditions. Thereafter, the Firm will make a good faith effort to make subsequent payments in accordance with the regular payroll schedule, and supplemental compensation will be paid in full no later than 30 days after the last day of the employee's CA PFL period. Note that for employees who satisfy the preconditions after their PFL period has already ended, the Firm will pay the total supplemental compensation no later than 30 days after the employee has satisfied the preconditions.

If the employee receives CA PFL benefits intermittently, as permitted by the CA PFL program, to be eligible for supplemental compensation during a particular increment of leave, the employee must have commenced employment with the Firm at least 180 days prior to the start of that particular increment of intermittent leave. In this case, the supplemental compensation amount will be based on the employee's wages immediately preceding the first increment of the leave period, even if the employee's wages increase over the course of the entire intermittent CA PFL period. If the employee's wages decrease over the CA PFL period, the Firm may recalculate the supplemental compensation amount.

The Firm prohibits retaliation against any person for exercising rights to supplemental compensation pursuant to the PPLO.

For more details, regarding supplemental compensation, please consult Human Resources.

V. Mentorship Program

A. Informal

We believe in providing opportunities that enable our employees to develop to their fullest potential. We encourage you to seek out informal mentors both within the Firm and the industry, who may give you advice on, and champion opportunities for, your career progression. We also encourage you to take advantage of all available training opportunities related to your work. As you progress in your job, ask your manager or **[Human Resources]** about other opportunities for growth.

B. Formal

The Firm's mentoring program is designed to provide assistance and guidance to new and current employees as they explore options and plan career growth strategies.

The mentoring process links an experienced person (mentor) with a less experienced person (mentee), to foster the career development and professional growth of the mentee. The mentoring process requires that the mentor and mentee meet regularly, identify specific goals in collaboration with one another, and to provide each other with meaningful feedback to ensure that these goals are reached. Participating in a mentoring program requires commitment and hard work. Mentoring should be used in conjunction with training, special assignments, cross training, and other learning opportunities whenever possible.

All current employees may request a mentor at any time and become a mentee. [The mentor cannot work in a supervisory capacity to the mentee.³] Mentors may be selected from a pool of volunteers or at the request of the mentee. Contact [Human Resources] for more information.

VI. Participation in Outside Affinity Groups and Activities

We encourage the participation of its employees in affinity groups and diversity organizations [such as _____] to share information, recognize achievements, and build community outside of the workplace. The Firm recommends that employees consider organizations that will have a positive impact on their business outreach/development and professional development. At its own discretion, the Firm may provide funding to employees to organize or sponsor development, networking and/or community outreach events or initiatives. Funding may also be available to cover membership dues for affinity groups or diversity organizations, as well as registration fees for approved events. Any request for funds must be made in writing and explain the business impact of the proposed activity or membership.

VII. Flexible Work Arrangements

Note: The following policies are designed to provide eligible employees with flexible work schedules. There are multiple reasons why employees might need to participate in a flexible work arrangement, some of which include caring for (1) a child for whom the employee has assumed parental responsibility, (2) elderly parents, or (3) a family member with a serious health condition (this includes persons to whom the employee is related by blood, legal custody, marriage, or domestic partnerships, as a spouse, domestic partner, child, parent, sibling, grandchild or grandparent). Because eligibility for flexible work arrangements may be made dependent on business necessities and other reasonable business-related reasons, you should consult legal counsel before implementing these policies.

A. Temporary Part-Time Schedules

Temporary part-time work (*i.e.*, less than 40 hours a week) may be available to employees with a compelling need to work a reduced schedule. For example, employees may be eligible for temporary part-time work when such a schedule will best allow them to transition into the workplace following an extended leave of absence. Employees should carefully consider all the personal issues involved in moving to a part-time schedule, such as a reduction in pay.

³ This provision is optional, as it may not be practical in smaller firms to have mentor/mentee relationships that are separate from supervisory relationships.

In all cases, working hours must be balanced to meet the operating needs of the Firm, based on which it may not be possible to accommodate a request for a reduced schedule.

The following guidelines should be followed in approving part-time schedule requests:

- To be eligible, an employee must maintain a satisfactory job performance.
- The Firm's operational requirements must be met. An employee's supervisors are responsible for assessing business needs to determine if a part-time schedule request furthers an appropriate and efficient use of resources. Accordingly, some positions may not be eligible for part-time arrangements. Generally, employees should first discuss their requests with their immediate supervisors. Then, requests must be made to, and approved in writing by, [specify individual or department]. To be approved, the written request must specify the proposed daily schedule, including any legally required meal periods. The selected schedule should be fixed for a period of time of at least # months.
- Employees shall be responsible for attending all mandatory meetings, training, and other events, even if such meetings and training are scheduled at an "off" time.
- Hours actually worked must be accurately recorded on each non-exempt employee's timesheet.

Employees on a temporary part-time schedule will be considered for promotion on an equal basis with full-time employees. In addition, they are entitled to the same benefits they received as full-time employees. However, salary and any salary increases will be pro-rated.

B. Telecommuting

Telecommuting entails a full-time or part-time work-from-home arrangement on a permanent or temporary basis. In general, telecommuting is a privilege that may be granted under appropriate circumstances to high-performing employees whose job responsibilities are suited to such an arrangement. All telecommuting requests will be decided on a case-by-case basis following the guidelines set forth below.

Telecommuting is not intended to permit employees to have time to work at other jobs or to run their own businesses. Failure to fulfill normal work requirements, both qualitative and quantitative, on account of other employment, may be cause for disciplinary action up to termination of employment.

1. Review and Approval Guidelines

Employees who wish to telecommute must first discuss the request with their immediate supervisor, who must support the request. Once the employee has obtained the supervisor's approval, he or she must make a written request to [specify individual or department], proposing a specific telecommuting schedule, including the applicable workdays and hours. Ultimately, permission to engage in telecommuting is given at the discretion of the Firm and must be in writing.

Generally, requests to telecommute should be contemplated when:

- Telecommuting is appropriate considering the nature of the employee's job;
- The employee has demonstrated sustained high performance, and when the supervisor believes that the employee can maintain the expected quantity and quality of work while telecommuting; and
- The employee has a suitable off-site work location.

Generally, requests to telecommute should not be contemplated when:

- The nature of the job requires the employee's physical presence (*e.g.*, the employee must supervise the work of other employees or be present to interact with other employees or third parties);
- The employee's performance evaluations do not show sustained high performance and/or adequate productivity levels;
- The employee has received disciplinary action **[within the last 6 months]**;
- The employee has a demonstrated attendance problem;
- The employee requires close supervision as indicated, for example, by the employee's regular need for guidance on technical matters; or
- The employee has been employed for less than **[specify, *e.g.*, 6 months]**.

2. General Expectations from Telecommuting Employees

All approved telecommuting requests are subject to the following requirements:

- Employees shall be responsible for attending all mandatory on-site department meetings, training, and other events, even if such meetings and training are scheduled to occur during telecommuting hours.
- Employees must maintain a normal workload.
- Employees who are unable to work due to illness or otherwise wish to be relieved of work responsibilities during telecommuting hours must request time off as provided in the **[list appropriate policies]** of the Firm's Employee Handbook, and report their absence to their supervisor.
- Employees must ensure the safety and security of all of the Firm's property and proprietary information. Firm property such as computers, printers, fax machines and other equipment loaned to an employee is the employee's responsibility while it is not on the Firm's premises. It is the employee's responsibility to make sure that their

homeowners/renters insurance covers injury arising out of or relating to business use of the home.

3. Arrangement Duration

All telecommuting arrangements are granted on a trial basis and may be revoked by the Firm at any time for any reason or no reason at all. In addition, an employee may request to stop telecommuting at any time (except in cases in which telecommuting is a requirement of the position). Nevertheless, in making telecommuting arrangements, both the Firm and the employee must be mindful that this policy is designed to provide a consistent and stable working arrangement, and it should not be used as a constant series of short-term, work-from-home arrangements.

4. Firm Property and Expenses

Equipment and services may be provided and paid for by the Firm. In many cases, employees will be expected to provide their own equipment, such as computers and telephone lines, if they wish to telecommute. If equipment (such as computers, printers and software) or services (such as fax lines) are provided to the telecommuting employee, they must be listed with identifying information (such as serial numbers) on the employee's telecommuting approval document as soon as the employee takes possession of the equipment or service. All such equipment and services are provided on loan by the Firm, to which they must be returned upon termination of the telecommuting arrangement in the same condition in which they were originally provided, minus normal wear and tear. Employees are personally liable for missing or damaged equipment.

Employees may be entitled to reimbursement for their reasonable, necessary business expenses incurred while telecommuting, consistent with the Firm's expense reimbursement policies.

5. Taxes

Income taxes will be withheld based on the location of the Firm's office which the employee would be located if they were not telecommuting, not on the location from which the employee telecommutes. Employees may wish to consult their tax advisor with respect to other tax consequences of telecommuting.

6. Insurance

The Firm assumes no liability for injuries occurring in the employee's home workspace outside of work hours. Employees should note that some homeowner policies do not automatically cover injuries arising out of, or relating to, the business use of the home. For the employee's protection, employees should have their homeowners/tenants liability policy endorsed to cover bodily injury and property damage to all third parties arising out of, or relating to, the business use of their home. Employees who live in rented property should be aware that their lease may not permit business use of the premises.

C. Flex-time Schedules

Flex-time means a work schedule that includes designated hours during which an employee may, with the approval of the supervisor [and HR manager], elect an alternative time of arrival and departure from work. Working hours must be balanced to meet the operating needs of the Firm and, if possible, an employee's own personal preferences as to work hours. [Within the guidelines provided, it is the policy to give full-time employees the opportunity to request the hours of work that consistently suit their individual needs. However, it may not be possible to accommodate all such requests for alternative schedules.⁴]

The Firm's regular business hours are from [specify, e.g., 8:30 a.m. to 5:00 p.m. Monday through Friday]. And it is expected that all Firm functional areas will be staffed as necessary during regular hours. The following guidelines should be followed in approving flex-time requests:

- To be eligible to participate in flex-time, an employee must maintain a satisfactory job performance. Notwithstanding the foregoing, employees in their first [specify timeframe, e.g., 6 months] in a new job or position will generally be expected to work the standard schedule to ensure appropriate training and interaction with others.
- The Firm's operational requirements must be met. Supervisors are responsible for assessing business needs to determine if a flex-time request furthers an appropriate and efficient use of resources. Accordingly, some functional areas may be unable to offer flexible hours for some positions and/or during certain times of the year.
- Generally, employees should first discuss their requests with their immediate supervisors. Then, requests must be made to, and approved in writing by, [specify individual or department]. Flex-time schedules totaling 8 hours of work a day (and including any legally required meal periods), 5 days a week, may be selected during the time [specify, e.g., 6:30 a.m. through 6:30 p.m.]. The selected schedule should be fixed for a period of time of at least # months.
- Employees shall be responsible for attending all mandatory meetings, training, and other events, even if such meetings and training are scheduled at an "off" time.
- Hours actually worked must be accurately recorded on each non-exempt employee's timesheet.

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⁴ If your Firm would prefer not to explicitly state this policy, it can revise to state, "The Firm will consider flex-time requests on a case-by-case basis."