



# City of Seattle

Edward B. Murray, Mayor

## Seattle Office of Labor Standards

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### Highlights of Final Administrative Rules for the City of Seattle Secure Scheduling Ordinance

Please note: Changes from original draft rules are *italicized*.

- **Bona fide business reason.** Bona fide business reasons for declining an employee's request for work schedule preferences include:
  1. A work schedule change that would require an employer to pay additional compensation under the Secure Scheduling Ordinance, the Fair Labor Standards Act, the Minimum Wage Act, or the employer's own written policy (e.g. holiday pay);
  2. An action that would cause the employer to violate an administrative rule;
  3. An action that would cause the employer to violate a bona fide collective bargaining agreement;
  4. An action that would cause the employer to provide a work schedule that conflicts with, a seniority system in a written policy and/or bona fide collective bargaining agreement.
  5. An action that would cause the employer to displace one or more employee(s) from an existing work schedule arrangement. *Added #3 and #5.*
- **Employee's other job or jobs.** Job means employment by the same or different employer. *Removed independent contractor.*
- **Limits on employee coverage.** Ordinance does not cover employees who work in hourly administrative or professional positions (e.g. human resources, payroll, and receptionist positions). *Removed modifier, "non-customer facing."*
- **Fixed, point of sale location.** The "fixed, point of sale location" means the location where the employee works, or reports to work, and refers to the entirety of such location, including areas open and closed to the public. *Added "reports to work" to definition of fixed, point of sale location.*
- **Percentage of work at a covered location.** If an employee does not work, or report to work, at a fixed, point of sale location, the employee is covered by this ordinance if the employee works, or if the employer reasonably expects the employee to work, at least 50% of the time at the employer's fixed, point of sale location(s) in Seattle. *Clarified that 50% calculation applies only if the employee does not work or report to work at the fixed, point of sale location.*

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Accommodations for people with disabilities and language interpretive services provided upon request.

- **Right to request input into the work schedule – Scope.** This section only refers to the employee’s right to make requests for certain times (e.g. hours of the day, length of work shifts) and locations of work prior to the employer’s advance notice of work schedule required by [SMC 14.22.040](#). *Added a rule re: “scope” to clarify when these requirements apply.*
- **Right to request input into the work schedule – Third Party Documentation Verifying Information.** The employee may submit third party documentation to demonstrate the connection between a major life event and the need for a work schedule change, including but not limited to a notice from a landlord, notice from a child’s school, a class syllabus, and/or pay stub or other documentation of another job. The employer shall inform the employee of the ability to redact or withhold information that the employee wishes to keep private. *Added employer duty to inform employee of right to redact to better align with analogous verifying information provisions.*
- **Notice of work schedule change – Scope.** This section refers to any employee-requested schedule changes made after the employer’s advance notice of work schedule required by [SMC 14.22.040](#). *Added a rule re: “scope” to clarify when these requirements apply.*
- **Overtime.** Inclusion of premium pay in calculation of regular rate. *Removed this rule.*
- **Employee-requested work schedule changes – Definition.** “Employee-requested changes” are changes to the work schedule that are initiated by the employee after the employer’s advance notice of work schedule required by [SMC 14.22.040](#). Employee-requested changes take a wide variety of forms, including but not limited to, requests due to emergencies (e.g. flat tire) or major life events (e.g. childcare is unavailable); tardy arrivals; food service employee requests to stay past the scheduled work shift to close out a customer’s bill and collect the tip; and requests to stay past the scheduled work shift or leave early. *Added a definitional rule to clarify what types of requests would constitute employee-requested changes, which do not incur premium pay.*
- **Employee-requested work schedule changes – Granting or denying.** Employer may grant or deny an employee-requested work schedule change unless it is covered by another local, state, or federal law that requires granting such request. *Added rule to clarify what employer actions are permitted by the ordinance.*
- **Compensation for work schedule changes – Exceptions:**
  1. **“Other causes” outside the employer’s control that prevent operations from beginning or continuing.** Examples not listed in the ordinance include weather

events and events that would cause the employer to violate a law, statute, ordinance, code, administrative rule, and/or governmental executive order. *Added “weather events.”*

- **Individual notice of rights (i.e. workplace poster).** Employer is encouraged to provide each employee with a copy of the OLS workplace poster giving notice of the rights to secure scheduling under this ordinance ([SMC 14.22](#)). *Removed mandatory requirement to provide individual notice; employers still must display the poster in a conspicuous and accessible place at the workplace.*
- **Translations.** OLS shall create and distribute translated versions of such notices to facilitate employer compliance with translation requirements. Employers are not required to provide notices in languages other than English until OLS has created and posted the necessary translation on the OLS website. Employers are encouraged to notify OLS of the need for additional translations. *Added rule that employers are not required to provide translated notices until OLS has made the template.*
- **Retaliation and discipline.** Employers may discipline an employee for:
  1. Abuse of the employer’s reasonable, notification and job requirements for employee-requested work schedule changes and/or preferences prior to the advance notice of work schedule required by [SMC 14.22.040](#); and
  2. Failure to comply with, or abuse of, the employer’s reasonable, notification and job requirements for employee-requested work schedule changes, including changes due to an emergency or major life event not covered by another local, state or federal law, after the advance notice of work schedule required by [SMC 14.22.040](#). *Added rule to clarify what employer actions are permitted by the ordinance.*

**Other highlights from draft rules, either remaining the same or with minor clarification (e.g. formatting and editing).** Changes from draft rules are *italicized*.

- **Good Faith Estimate:** Clarifies that a “significant change” to the work schedule occurs when “there is a difference of at least 30% between the good faith estimate and the median number of hours in the written work schedules.”
- **Interactive Process:** Clarifies the timeline and documentation requirements, and suggests content for the interactive process following (1) a significant change to the good faith estimate; or (2) a request for input into the work schedule.
- **Compensation for work schedule changes – Grace period:** Clarifies that employers have a 15-minute grace period before additional compensation (i.e. premium pay) is due for employer-requested work schedule changes. Under this rule, an employer-requested work schedule change that adds or subtracts 15 minutes or less would not

result in a requirement for the employer to pay additional compensation (i.e. premium pay).

- **Payment for adding hours:** Clarifies that, in general, employer-requested changes require payment for one hour of pay at the employee’s scheduled rate of pay in addition to wages earned, for adding hours of work. For each employer-requested change that is less than one hour, the employer may pro-rate the additional compensation due. *Added language to include the general requirement from the ordinance.*
- **Employees who are jointly employed:**
  1. **Joint liability.** Joint employers are individually and jointly responsible for the provision of a good faith estimate;
  2. **Good faith estimate and advance notice of work schedule.** When providing a good faith estimate and advance notice of work schedule, employees who are jointly employed (with a temporary services provider, staffing agency, contractor, subcontractor, or other employer) are considered “new employees” upon starting each distinct assignment. Employers must provide a good faith estimate upon starting each distinct assignment and may immediately place such employees on the work schedule (i.e. without providing 14 days of advance notice) upon starting a distinct assignment.
  3. **Compensation for work schedule changes.** For employees who are jointly employed with a temporary service provider, staffing agency, contractor, subcontractor or other employer, employers must provide additional compensation for each work schedule change after the employee has started a distinct assignment.
  4. **Access to hours.** Employers are not required to provide notice of additional hours of work to employees who are jointly employed, if such employees are not on the employer’s payroll.
  5. **Access to hours – Exceptions for employees on a “access to hours list.”** Employers are not required to place employees who are jointly employed on the access to hours list, if such employees are not on the employer’s payroll. *Revised language and formatted these sections.*
  6. **Access to hours – Exceptions for designated hiring programs.** For the purpose of using hiring programs as an exception to the access to hours requirements, employers shall limit the number of employees hired through the hiring program for the current calendar year to no more than 15% of covered employees at one or more fixed, point of sale location or locations. *Revised language, “to no more than 15% of covered employees at one or more fixed, point of sale location or locations” without changing substance.*