

# City of Seattle Office of Labor Standards

## SECURE SCHEDULING

**effective July 1, 2017**



# OLS MISSION

**Our mission is to advance labor standards through thoughtful **community** and **business** engagement, strategic enforcement and innovative policy development, with a commitment to **race and social justice**.**

# OLS HISTORY

2012	<b>PSST</b> - Paid Sick and Safe Time Ordinance
2013	<b>FCE</b> - Fair Chance Employment Ordinance
2014	Mayor convened Income Inequality Advisory Committee to craft minimum wage policies
	Mayor and City Council convened Labor Standards Advisory Group to address wage theft and suggest ways to strengthen labor standards implementation
	City Council passed legislation creating Office of Labor Standards as a new division within the Seattle Office for Civil Rights
April 1, 2015	OLS birthday <b>MW &amp; WT</b> - Minimum Wage and Wage Theft Ordinances
2016	Wage Theft Prevention and Labor Standards Harmonization Ordinance
	<b>HEHS</b> - Hotel Employees Health and Safety Initiative
2017	OLS becomes an independent office
	<b>SS</b> - Secure Scheduling Ordinance

# OLS STAFF

## May 2017 - 17 Core Staff

- Dylan Orr, Director
- Senior Policy Advisor
- Communications Manager
- Finance Operations Manager
- 2 Business Liaisons
- Community Liaison
- Enforcement Supervisor
- 6 Investigators
- Intake investigator
- Paralegal
- Administrative Assistant

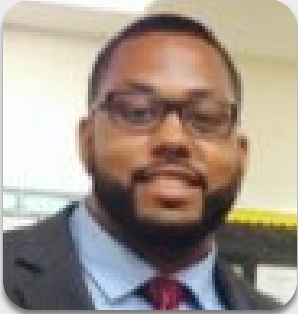
## Spring 2017

- OLS will move into a new office on the third floor, 810 3<sup>rd</sup> Avenue
- OLS will hire 5 additional staff by the end of 2017
- *Policy & data analyst, three investigators, admin assistant*

# OLS STAFF



# BUSINESS QUESTIONS



**Darius Foster, Business Liaison**

**206-386-1238**

**[Darius.foster@seattle.gov](mailto:Darius.foster@seattle.gov)**



**Kerem Levitas, Business Liaison**

**206-386-9758**

**[Kerem.levitas@seattle.gov](mailto:Kerem.levitas@seattle.gov)**



**Karina Bull, Senior Policy Advisor**

**206-684-4536**

**[Karina.bull@seattle.gov](mailto:Karina.bull@seattle.gov)**

# OLS MONTHLY DASHBOARDS



# OLS MONTHLY DASHBOARDS

- ❖ **Information compiled from 2012 to present**
- ❖ **Monthly compilations from June 2015 to present**

<http://www.seattle.gov/laborstandards/data>

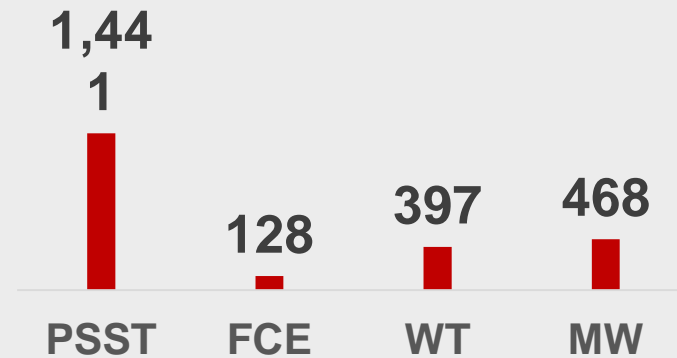


# MARCH 2017 - DASHBOARD

**Employer** Inquiries / total

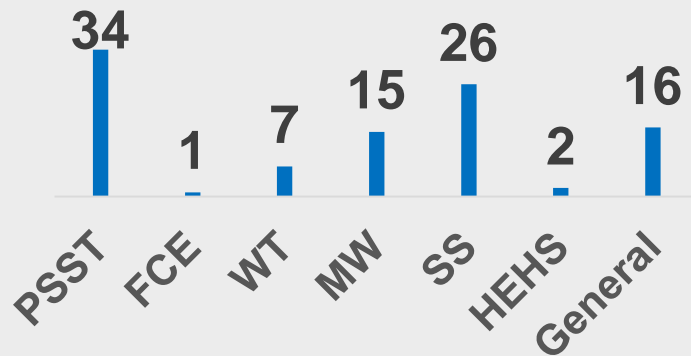


**Employee** Inquiries / total

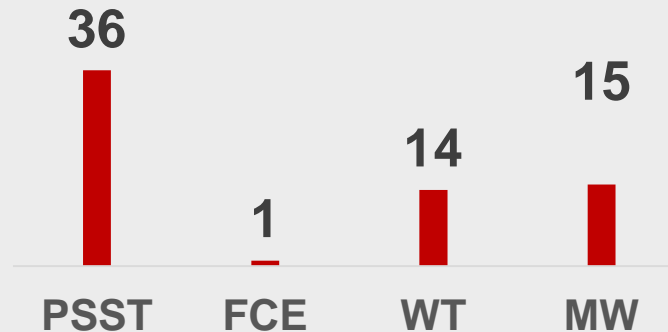


# MARCH 2017 - DASHBOARD

**Employer** Inquiries / March

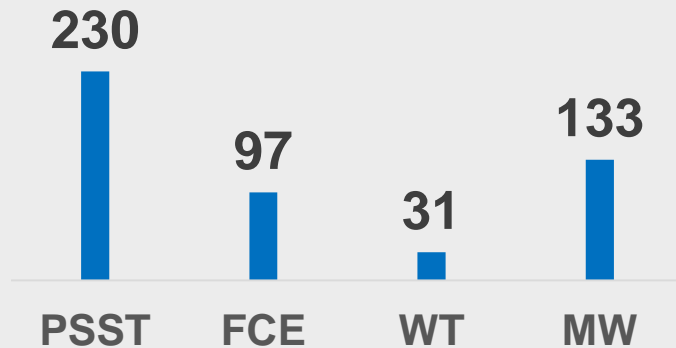


**Employee** Inquiries / March

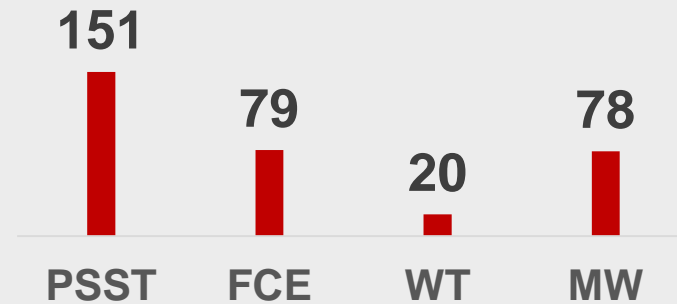


# MARCH 2017 - DASHBOARD

## Investigations **opened** Total

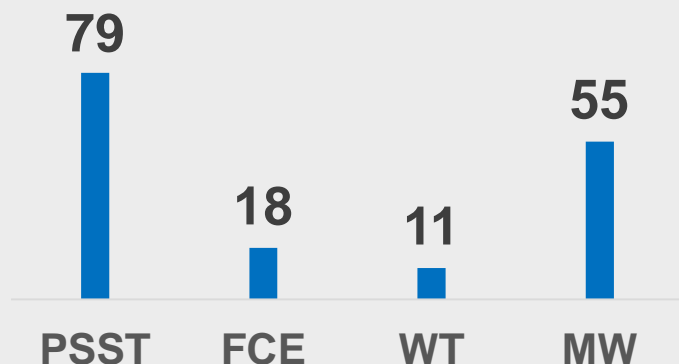


## Investigations **closed** Total



# MARCH 2017 - DASHBOARD

## Investigations open March



## Monetary remedies assessed (wages, interest, and damages)

PSST	\$180,992.53
FCE	\$23,000
WT	\$24,252.32
MW	\$781,667.02
Total	\$1,009,911.87
Total Number of Employees Awarded Monetary Remedies	1,241



# SECURE SCHEDULING

effective July 1, 2017



# Predictable schedules that work.

**New secure scheduling practices for**

Race & social justice

Employee health, safety and welfare

Greater economic security

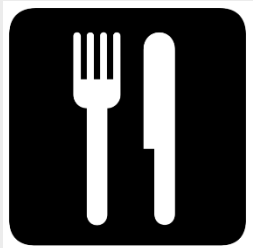
Increased employee input into scheduling; and

Reduced involuntary part-time work.

# HOURLY EMPLOYEES



# LARGE FOOD SERVICES & RETAIL



- ❖ **Large food service & retail employers**
- ❖ **Retail** = 2012 NAICS code 441-453998
- ❖ **Food Service** = 2012 NAICS code 722
- ❖ **500+ employees worldwide**
- ❖ **Full Service Restaurants** = additional requirement for 40+ full-service restaurant locations worldwide

**NAICS Code** = **N**orth **A**merican **I**ndustry **C**lassification **S**ystem

Employers must list the NAICS code when registering for a City of Seattle business license.



# NAICS CODE

<http://www.seattle.gov/licenses/find-a-business>

## FIND A BUSINESS

Need to look up a business? Search the database for licensed Seattle businesses. You can search by business name, industry type or zip code.

The Seattle business license tax certificate database shows you the following information about a business:

- legal name
- trade name ("doing business as")
- main location address
- phone number
- license tax certificate expiration date
- industry type and Standard Industrial Code (SIC)

### City of Seattle Business License Database

#### Search by Company Name

If you are entering a partial name, please provide as many characters as possible.

Legal Name or Trade Name contains:

#### Search by Business' Physical Address

Business' physical address contains:

#### Search by Commodity (NAICS Code)

#### Search by Zip Code/Neighborhood

- View the number of [Seattle Businesses in the 100 most popular North American Industry Classification System Codes](#)
- View a list of all [North American Industry Classification System Codes](#) and their descriptions

For more information on the Business License Database email: [tax@seattle.gov](mailto:tax@seattle.gov)

# NAICS CODE

## FIND A BUSINESS

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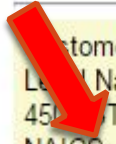
- legal name
- trade name ("doing business as")
- main location address
- phone number
- license tax certificate expiration date
- industry type and Standard Industrial Code (SIC)

## City of Seattle Business License Database

Your search found 1 Businesses named **Archie McPhee**.

[Back to Search](#)

Follow the links below to view a list of companies with the same NAICS code.



Customer # (Business license #) : **596812**

Legal Name: **ACCONTREMENTS LLC** Trade Name: **ARCHIE MCPHEE**

4500 1ST AVE N SEATTLE, WA 98103

NAICS: [453220](#), [Gift](#), [Novelty](#), and [Souvenir Stores](#)

### License types:

BUSINESS LICENSE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838

SCANNING SYSTEM: 4 OR MORE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838

# SCHEDULING REQUIREMENTS

- 1. Good faith estimate of work schedule**
- 2. Right to request input into work schedule**
- 3. Right to rest between work shifts**
- 4. Advance notice of schedule**
- 5. Compensation for schedule changes**
- 6. Access to hours for existing employees**

# **GOOD FAITH ESTIMATE**

**Employer provides written estimate of median number of hours and on-call shifts.**

# GOOD FAITH ESTIMATE

- 1. Employer provides written information** - Median number of hours and whether employee will work on-call shifts over the course of one year (divided into three-month periods)
  - ❖ **New employees** = at time of hire.
  - ❖ **Existing employees** = revise once every year (calculated from the point of the last good faith estimate) and when there is a significant change.
  - ❖ **Translations required** = must be provided in English and primary language of the employee.

# GOOD FAITH ESTIMATE

## **2. Employee can notify employer of a significant change.**

❖ **Significant change** = difference of at least **30%** between the GFE and median number of scheduled hours in written work schedules, over the one or more three-month periods.

## **3. Upon notification of a significant change, employer must initiate an “interactive process” with employee.**

## **4. Employer must complete interactive process within three weeks.**

# EXAMPLE – GOOD FAITH ESTIMATE

1. Hire date: January 1, 2017
2. Median number of hours over the course of the year

Year begins	January 2017
Quarter One (January – March)	20 hours
Quarter Two (April – June)	20 hours
Quarter Three (July – September)	20 hours
Quarter Four (October – December)	35 hours

3. On-call shifts

Yes	✓
No	

## EXAMPLES – 30% SIGNIFICANT CHANGE

Estimate Median Hours	Significant Change: Adding Hours	Significant Change: Subtracting Hours
40	52	28
30	39	21
20	26	14
10	13	7



# RIGHT TO REQUEST

**Employee can request schedule preferences prior to posted work schedule.**

# RIGHT TO REQUEST

- 1. Employee can request work schedule preferences & changes**
  - ❖ Requests for specific times and locations of work.
- 2. Employer must engage in “interactive process”**
  - ❖ Must initiate discussion within one week of the request; complete the discussion within three weeks.
- 3. Employer can ask for “verifying information”**
  - ❖ Must inform employee of ability to redact private information.
  - ❖ Written statement from employee or documentation from third party (e.g. health care professional, school, landlord).
- 4. Employer has increased obligations for requests due to “major life events”**
  - ❖ Must grant request unless the employer has a bona fide business reason for denying such request.
  - ❖ Must provide a written response when granting or denying the request.

# MAJOR LIFE EVENT

**Employer has increased obligations for employee-requests for schedule changes due to a “major life event.”**

# MAJOR LIFE EVENT

**Important, serious or significant event related to the employee's access to the workplace due to**



Changes in employee's transportation.



Changes in employee's housing.



Employee's own serious health condition.



Employee's responsibilities as a caregiver.



Employee's enrollment in a career-related educational or training program.



Employee's other job or jobs.

# **BONA FIDE BUSINESS REASON**

**Employer can identify a  
“bona fide business reason”  
to decline an employee’s request for  
work schedule preferences related  
to a major life event.**

# BONA FIDE BUSINESS REASON



**Significant & identifiable burden of additional costs.**



**Significant & identifiable detrimental effect on ability to meet organizational demands**

- ❖ A work schedule change that requires an employer to pay additional compensation under a law or written policy (e.g. holiday pay).
- ❖ An action causing employer to violate a bona fide collective bargaining agreement or a seniority system in a written policy;
- ❖ An action causing the employer to displace one or more employee(s) from an existing work schedule arrangement.

# RIGHT TO REST

**Employer pays additional compensation for “clopenings” separated by less than 10 hours**

# RIGHT TO REST

1. **“Clopening”** - Employee works closing and opening work shifts.
2. **Employee request or consent** - Employer only schedules “clopenings” separated by less than 10 hours upon employee request or consent.
3. **Additional pay (i.e. “premium pay”)** - Employer pays 1.5x the scheduled rate of pay for hours worked that are less than ten hours apart.
4. **Exception** - Additional compensation does not apply to “split shifts”



# ADVANCE NOTICE OF WORK SCHEDULE

**Employer provides work  
schedule 14 days in advance.**

# EXCEPTIONS

## ADVANCE NOTICE OF SCHEDULE

### Exceptions for “new and returning employees”

- ❖ Employees with a work schedule change.
- ❖ New employees at time of hire.
- ❖ Transfers, promotions, and new job classifications.
- ❖ Employees who are jointly employed (e.g. employees provided by a staffing agency, contractor, subcontractor, or other employer); and
- ❖ Returning employees from a leave of absence.

# **PAY FOR SCHEDULE CHANGES**

**Employer provides additional  
pay for employer-requested  
schedule changes  
(with some exceptions).**

# PAY FOR SCHEDULE CHANGES

## 1. Compensation (“premium pay”)

- ❖ **Adding hours** = Employer pays one additional hour of pay at the scheduled rate *plus wages earned*. Employer may pro-rate payment for changes that are less than one hour.
- ❖ **Subtracting hours (including on-call shifts)** = Employer pays for half the hours not worked *plus wages earned*.

## 2. Grace period = 15 minutes

# **EXCEPTIONS**

## **PAY FOR SCHEDULE CHANGES**

**Employer DOES NOT provide additional pay for certain schedule changes.**

# EXCEPTIONS

## PAY FOR SCHEDULE CHANGES

1. **Employee-requested changes**
2. **Shift swaps** - Manager can grant or deny employee requests for shift swaps.
3. **Mass communication** - Employee accepts a schedule change in response to an employer-initiated, “mass communication” about availability of additional hours due to a scheduled employee not being able to work.
4. **In-person group communication** - Employee accepts a schedule change in response to an employer-initiated, “in-person group communication” with two or more currently working employees about additional hours due to unanticipated customer needs.

# EXCEPTIONS

## PAY FOR SCHEDULE CHANGES

5. **Access to hours** - Employee accepts an offer of hours under the “access to hours” provision.
6. **Discipline** – Employer reduces employee hours due to bona fide discipline.
7. **Operations cannot begin or continue** – Employer cannot begin or continue operations due to (a) threats to employees or property; (b) recommendation of public official; (c) public utilities failure; (d) natural disaster; (e) weather event; and (f) an event that would cause the employer to violate a law.

# EXCEPTIONS

## PAY FOR SCHEDULE CHANGES

### “Mass communication”

Employer-initiated, written message sent to two or more employees about availability of additional hours due to a scheduled employee not being able to work.

1. **Required information** - Each mass communication must convey
  - ❖ The message is a mass communication;
  - ❖ Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
  - ❖ Accepting such hours does not require the employer to pay additional compensation for work schedule changes.
2. **Scope** - Employer may choose to limit mass communications to (a) qualified employees, and (b) employees who would not incur premium pay (e.g. overtime).



# EXCEPTIONS

## COMPENSATION FOR SCHEDULE CHANGES

### **“In-person group communication”**

Employer-initiated, discussion with two or more employees about availability of additional hours due to unanticipated customer needs. Hours must be consecutive to current shift.

- 1. Required information** - Each in-person group communication must convey
  - ❖ Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
  - ❖ Accepting such hours does not require the employer to pay additional compensation for work schedule changes.
- 2. Scope** - Employer can initiate the in-person group communication with currently working, qualified employees who are not already scheduled to work the additional hours.

# **ACCESS TO HOURS**

**Before hiring new employees  
(including temps),  
employers must offer hours to  
current employees.**

# ACCESS TO HOURS

## Three + Two Days

### 1. Notice of Hours

- ❖ **Three days** - Employer posts written information about additional hours in noticeable place at worksite for all employees on the payroll

### 2. Job Offer

- ❖ **Two Days** - Employer offers job to qualified, existing employee(s) and allows two days to consider offer.

# ACCESS TO HOURS

## NOTICE OF HOURS

- 1. Employer posts written notice for three days in conspicuous place at worksite**
  - ❖ Notice includes position description and title; required qualifications; total hours of work; schedule; and duration of assignment (temp or on-going).
  - ❖ Notice may provide specific or general information (e.g. “hours and schedule dependent upon the employee’s availability”).
- 2. Employer provides notice to all employees on the payroll**
  - ❖ Employer is not required to provide notice to employees on a leave of absence, planned vacation, or planned use of PSST for the entire three-day period of notice.

# ACCESS TO HOURS

## JOB OFFER

- 1. Employer offers job to qualified, existing employee(s) and allows two days to consider offer.**
  - ❖ Employer CANNOT not require one employee to accept all hours
  - ❖ Employer CAN limit distribution of hours to full work shifts rather than parceling hours among employees.

# ACCESS TO HOURS

## JOB OFFER

### 2. Employee may not qualify for the additional hours under the following circumstances

- ❖ **Overtime** = Overtime or predictability pay would be required if the employee received the additional hours.
- ❖ **Discipline** = Employee is not currently in good standing due to a bona fide employer documented discipline or improvement plan.
- ❖ **Pre-emption** = Employee is barred by other laws from conducting the work required in the available hours.
- ❖ **Unqualified** = Employee, to a reasonable employer acting in good faith is not qualified with the skills and experience to perform the work.

## **EXCEPTIONS** - ACCESS TO HOURS

**Employer can immediately hire  
new employees in certain  
situations.**

# EXCEPTIONS - ACCESS TO HOURS

1. **Written declination from all current employees**
2. **Written declination from employees on “access to hours list(s)”**
  - ❖ **Access to hours list** = Written list of employees who receive notice of additional hours available for work. All employees are automatically on the list & can ask to be added or removed at time of hire or during employment. Employer must make list available for viewing to employees upon request.
3. **Hiring programs** = Hours of work that the employer has designated for hiring programs (e.g. diversity, supported employment, young adult programs) affiliated with a government entity or external non-profit organization that has been approved subject to the rules of the Director.



# OTHER REQUIREMENTS

- 1. Record keeping**
- 2. Notice and posting**
- 3. Protections against Retaliation**
- 4. Waiver**
- 5. Employees who are jointly employed**

# RECORD KEEPING

**Employers must keep records  
for three years.**

# RECORD KEEPING – 3 YEARS

1. **Good faith estimates**
2. **Right to request** – Employer's grant or denial of employee's request for schedule preferences, prior to posted schedule, related to major life event.
3. **Advance notice of work schedules**
4. **Compensation for work schedule changes** - Payroll records showing additional compensation paid to each employee.
5. **Exceptions to compensation for work schedule changes**
  - ❖ Mass communications.
  - ❖ Documentation of employee-requested changes.
  - ❖ Documentation of employee discipline.
6. **Access to hours** - Notices for additional hours of work.
7. **Exceptions to access to hours**
  - ❖ **Written confirmation from employees** – Confirmation from all employees, or employees on the access to hours list, that they are not interested in accepting additional hours of work.
  - ❖ **Access to hours list(s)** - Records of employees who have opted out of receiving written notice of additional hours of work.

# NOTICE & POSTING

**Employer must display  
workplace poster and translate  
certain documents.**

# WORKPLACE POSTER

- ❖ Display SS workplace poster (coming soon)
- ❖ English and employee's primary language(s)
- ❖ Download from OLS website  
<https://www.seattle.gov/laborstandards/outreach>
- ❖ Pick-up from OLS & Seattle Customer Service Centers

THESE ORDINANCES COVER ALL EMPLOYERS WORKING INSIDE SEATTLE CITY LIMITS, REGARDLESS OF EMPLOYER'S IMMIGRATION STATUS OR LOCATION OF THEIR EMPLOYER.

## 2017 Seattle Labor Standards Ordinances

The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice.



This poster must be displayed in a conspicuous and accessible place at job sites, in English and the language(s) spoken by employees.

### SMC 14.19 Minimum Wage

SETS MINIMUM WAGES FOR EMPLOYEES

**Large Employers (\$501 OR MORE EMPLOYEES)**

Does the employer pay benefits to the individual employee's medical benefits?

<b>\$15.00</b> PER HOUR	<b>\$13.50</b> PER HOUR
----------------------------	----------------------------

**Small Employers (\$500 OR FEWER EMPLOYEES)**

Does the employer pay benefits to the individual employee's medical benefits and/or does the employer have at least \$5.00 per hour in profit?

<b>\$13.00</b> PER HOUR	<b>\$11.00</b> PER HOUR
----------------------------	----------------------------

**Employer Size**  
Count the employer's total number of all employees, including franchisees, count all employees in the franchise network.

**Medical Benefits**  
Employees must be covered by a level of medical benefits as defined by the Federal Affordable Care Act.

An employer cannot pay a reduced minimum wage if the employee declines medical benefits or is not eligible for medical benefits.

### SMC 14.20 Wage Theft

PROVIDES PROTECTIONS AGAINST WAGE THEFT

Employers must pay all compensation owed on a regular pay day and give employees written information about their job and pay.

**Written information must include:**

- Employer's name and contact information.
- Employer's rate of pay, eligibility to earn overtime, pay basis (hour, shift, day, week, commission), and regular pay day.
- Explanation of employer's tip policy.
- Itemized statement of pay information on pay days.

**Examples of pay requirements:**

- Pay minimum wage.
- Pay overtime.
- Provide work breaks.
- Pay amount promised.
- Pay for work off the clock.
- Pay tips earned.
- Reimburse employer expenses.
- Classify employees correctly; do not misclassify as independent contractors.

### SMC 14.17 Fair Chance Employment

LIMITS USE OF CONVICTION AND ARREST RECORDS

**Prohibited:**

- Job ads that exclude applicants with conviction or arrest records.
- Job applications with questions about conviction or arrest records, unless the employer has already screened the applicant for minimum qualifications.
- Job denial (or other adverse employment action) based solely on an arrest record.

**Some exceptions apply, including jobs with temporary access to children under 18, people with developmental disabilities, or reduce risk adults.**

**Employers are required to:**

- Delay criminal background checks until after screening applicants for minimum qualifications.
- Follow procedures before taking an adverse action based solely on a criminal background check:
  - Provide an opportunity to explain or correct criminal background check information.
  - Hold the position open for at least ten business days.
  - Have a legitimate business reason for how the person will harm the business or impact the employee's ability to perform the job.

### SMC 14.16 Paid Sick & Safe Time

REQUIRES PAID LEAVE FOR MEDICAL OR SAFETY ISSUES

Employers must provide employees with paid leave to care for themselves or a family member.

**Sick Time:** A physical or mental health condition, including a medical appointment.

**Safe Time:** Reasons related to domestic violence, sexual assault, stalking or other public safety issues.

**Paid Sick & Safe Time (PSST) Rates**

Employer Size	More than 1 and up to 49 FTEs	50 - 249 FTEs	250+ FTEs
<b>Accrual of PSST</b> PER HOUR WORKED	1 hour PER 40 HOURS	1 hour PER 40 HOURS	1 hour PER 30 HOURS
<b>Use and carry over of accrued PSST</b> PER BUSINESS YEAR	40 HOURS	56 HOURS	72 HOURS**

\*\*SAFE TIME CAN ALSO BE USED TO CARE FOR A HOUSEMATE

\*\*NEW HOURS FOR THE EMPLOYEES WITH A PAID TIME OFF (PTO) POLICY

**Employers must comply with these laws. Retaliation is illegal.**

File a complaint with the Office of Labor Standards

-or- File a lawsuit\* in court on or after:

- April 1, 2016 for employers with 50 or more employees
- April 1, 2017 for employers with fewer than 50 employees

\*LAWSUITS CAN BE FILED FOR MINIMUM WAGE, WAGE THEFT, AND PAID SICK & SAFE TIME VIOLATIONS.

**Confidential & Free Services**

- Investigations of complaints.
- Outreach to workers.
- Technical assistance for businesses.
- Resources and referrals.

Language interpretation, translations and accommodations are available.

**(206) 684-4500**  
seattle.gov/laborstandards

OFFICE OF LABOR STANDARDS 810 THIRD AVE, 3RD FLOOR, SEATTLE, WA 98104 (206) 684-4500 LABORSTANDARDS@SEATTLE.GOV HOURS: 8 AM-5 PM (MON-FRI)

# NOTICE & POSTING

## Translations

- 1. Employers translate the following documents**
  - ❖ Good faith estimate.
  - ❖ Advance notice of work schedule.
  - ❖ Notice for access to hours.
  - ❖ Workplace poster.
- 2. OLS creates poster and provides templates for translations**

# RETALIATION

**Employers are not allowed to interfere with employee rights, but can discipline employees in certain situations.**

# RETALIATION

## **1. Protections from retaliation**

- ❖ Employers may not interfere with any employee right protected by the ordinance.
- ❖ Employees have the right to decline any hours not on the posted schedule.

## **2. Discipline permitted for certain situations**

- ❖ Abuse of employer's requirements for employee-requested work schedule changes and/or preferences PRIOR to posted work schedule; and
- ❖ Failure to comply with, or abuse of, employer's requirements for employee-requested work schedule changes AFTER the posted work schedule.



# WAIVER

**Employers can waive scheduling requirements in a collective bargaining agreement.**

# WAIVER

## Waiver requirements

- 1. Express waiver** – Secure Scheduling requirements must be expressly waived in a collective bargaining agreement; and
- 2. Ratification of alternative scheduling structure** - Employees must ratify an alternative scheduling structure that meets public policy goals of the ordinance.

# EMPLOYEES WHO ARE JOINTLY EMPLOYED

## **Special requirements for employees who are jointly employed:**

Temporary services provider

Staffing agency

Contractor

Subcontractor; and

Other employer(s).

# EMPLOYEES WHO ARE JOINTLY EMPLOYED

1. **Joint liability** - Joint employers are individually and jointly responsible for compliance.
2. **Good faith estimate** - Employers provide a good faith estimate when such employee starts each distinct assignment.
3. **Advance notice of work schedule** - Employers may immediately place such employees on posted work schedules without providing 14 days of advance notice.
4. **Pay for work schedule changes** - Employers provide additional pay for each work schedule change after such employee has started a distinct assignment.
5. **Access to hours** - Employers are not required to provide notice of additional hours of work to such employees if they are not on the employer's payroll.

# ENFORCEMENT



# SOFT LAUNCH

- ❖ **Six months – July 1, 2017 to December 31, 2017**
- ❖ **OLS determines remedy owed to employees.**
- ❖ **OLS supports employer compliance.**
- ❖ **OLS does not impose civil penalties/fines -  
except for egregious violations (i.e. retaliation).**

# PRIVATE RIGHT OF ACTION

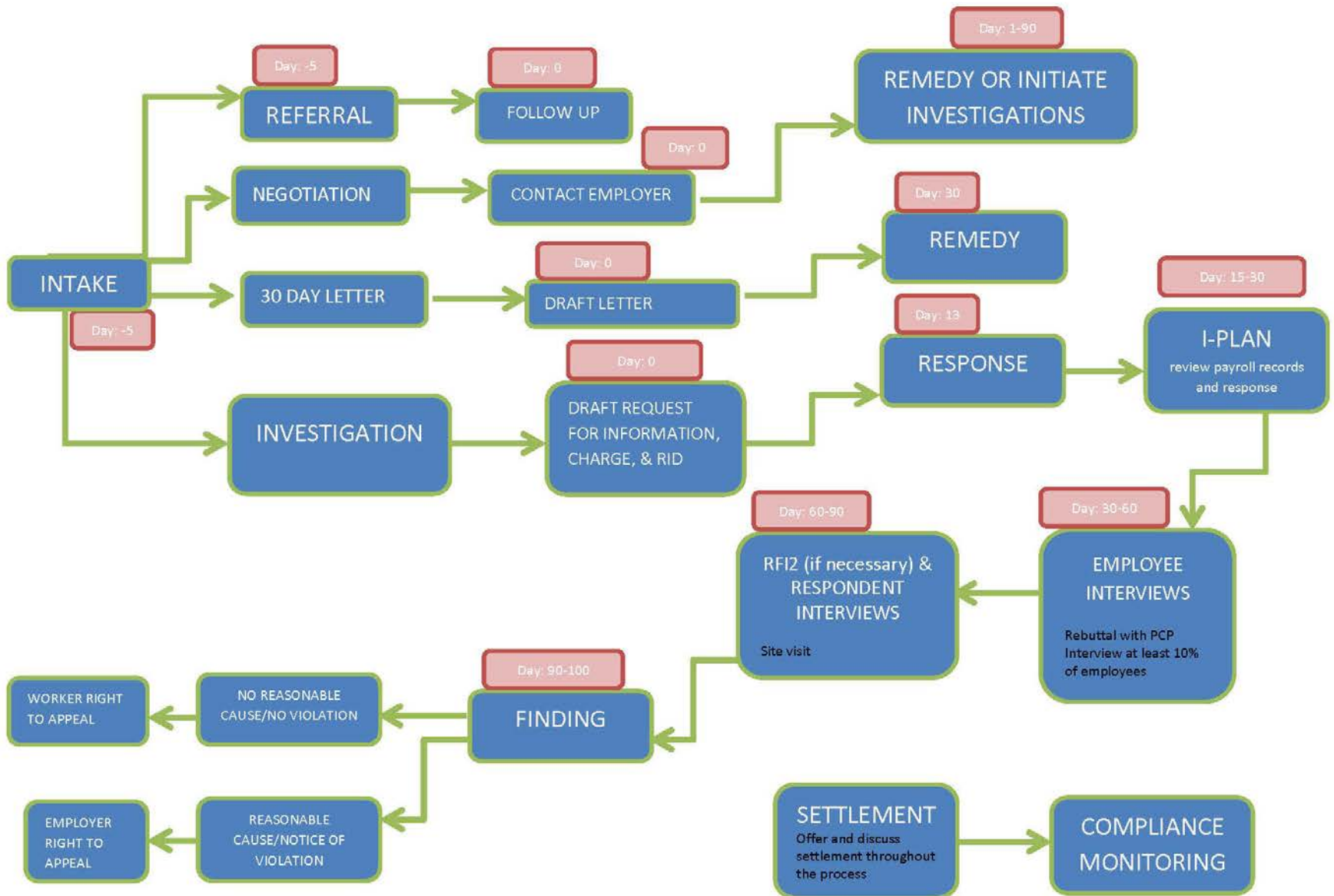
## ❖ Remedy

- Up to 3x unpaid wages
- Up to \$5,000 to aggrieved party for retaliation
- Attorney Fees and Costs

# INVESTIGATION

- ❖ **Protection of Identifying Information**
- ❖ **Company-wide Investigation (standard)**
- ❖ **Individual Investigation (retaliation)**
- ❖ **Complaint-based**
- ❖ **Directed**





<b>VIOLATION(S)</b>	<b>REMEDY OR PENALTY</b>
<b>First Violation</b>	<b>Up to 3x unpaid wages + interest</b>
<b>Subsequent Violations</b>	<b>Mandatory 3x unpaid wages + interest</b>
<b>First Violation</b>	<b>Up to \$500 per aggrieved party</b>
<b>Second Violation</b>	<b>Up to \$1000 per aggrieved party or 10% of unpaid wages, whichever is greater</b>
<b>Third Violation</b>	<b>Up to \$5,000 per aggrieved party or 10% of unpaid wages, whichever is greater</b>
<b>Subsequent Violation</b>	<b>Up to \$20,000 per aggrieved party</b>
<b>Chart of Fines</b>	<b>\$500 to \$1,000 fine</b>
<b>Retaliation</b>	<b>Reinstatement or up to 3x front pay; up to \$5,000 to aggrieved party</b>
<b>Settlement &amp; Mitigation of Penalties</b>	<b>Director Discretion</b>

# CHECKLIST & **SCENARIOS**



# CHECKLIST

- ☐ **Good Faith Estimate** - Employers provide median number hours and whether employee will work on-call shifts. Employer provide such info at time of hire, annually, and when there is a significant change.
- ☐ **Right to request input into work schedule** - Prior to the posted work schedule, employees can identify work schedule preferences. Employers must engage in interactive process with employee & grant requests related to major life event unless there is a bona fide business reason for denying the request.
- ☐ **Right to rest between work shift** - Employees earn 1.5x scheduled rate of pay for hours worked that are less than 10 hours between a closing and opening work shift.
- ☐ **Advance notice of work schedules** - Employers provide 14 days advance notice of schedules. Exceptions for new and returning employees.
- ☐ **Notice of work schedule changes**- After the posted work schedule, employee can decline an employer-requested change; and employer can grant or deny employee-requested change, unless another law requires granting the request.

# CHECKLIST

## ☐ **Pay for work schedule changes**

- ❖ **Additions** = Additional hour of pay at scheduled rate.
- ❖ **Subtractions** = Half the length of work shift that was cancelled or the remaining hours of a work shift that was shortened.
- ❖ **Exceptions** for employee-requested changes, mass communications, etc.

## ☐ **Access to hours for existing employees**

- ❖ **Hiring protocol** = Before hiring new employees (including temps), employers must offer addt'l hours of work to existing employees. Employers must post notice of addt'l hours for three days and allow existing employees two days to consider job offers.
- ❖ **Exceptions** for receipt of written declination from employees, use of access to hours list, and diversity hire programs.

## ☐ **Record keeping** - Three years.

## ☐ **Notice and posting** – Workplace poster and certain translations.

## ☐ **Waiver** - Collective bargaining agreement can waive requirements. Employees must ratify an alternative scheduling structure that meets policy goals.

# SCENARIOS - BONA FIDE BUSINESS REASONS

## 1. Which of the following situations could be bona fide business reasons?

- a. Employee asks to not work on Friday and Saturday nights, but those shifts are the busiest nights of the week; it's all hands on deck.
- b. Employee asks to work only morning and early afternoon shifts but those shifts are already covered by Fred and Angela who have seniority under the collective bargaining agreement.
- c. Employee asks not to work on August 5, but the employer can't provide a firm answer for a date so far in the future.
- d. Employee asks not to work on Thursday morning, but the schedule is already posted; the employer will have to find a replacement employee and possibly pay premium pay for a schedule change.
- e. Employee asks to be scheduled for morning shifts, but the employer thinks that it will cost too much to add another employee to the morning schedule.
- f. Employee asks to start working on Friday evenings, but the manager does not think that the employee is qualified to work on a busy night.
- g. Employee asks to not work on a scheduled shift on June 21, but the manager can't think of anyone who could work that shift.

# SCENARIOS - MAJOR LIFE EVENTS

## 1. Which of the following situations are related to major life events?

- a. Employee asks to not work on Friday and Saturday nights because she regularly works at an upscale restaurant on those days.
- b. Employee asks to work only morning and early afternoon shifts because that is when his children are in school.
- c. Employee asks not to work on August 5 because she is celebrating her 15<sup>th</sup> annual family reunion.
- d. Employee asks not to work on Thursday morning because she needs to take her partner to a doctor appointment on that day.
- e. Employee asks to be scheduled for morning shifts for the next month because his car broke down; he'll need to start taking the bus and it is most reliable in the mornings.
- f. Employee asks to not work on a particular, Sunday evening next month because there is a special concert happening that night.
- g. Employee asks to not work on a scheduled shift on June 21 because he has a last minute, parent/teacher conference.

# SCENARIO - RIGHT TO REQUEST

**Example** – Josie asks her manager if she can only work on Tuesdays and Thursdays for a college class. A week later, the manager says that she will think about it and asks for verifying information. Josie provides a handwritten note that she is taking classes at Central College on Mondays and Wednesdays. She also states that she wants to study on Fridays. The manager is perplexed: Tuesdays don't appear available because Devin has been working those days, by request, for 4 years. Thursdays might be available, but it would be a fair amount of work to make modify the schedules. Friday is the busiest day of the week and the manager really needs Josie to work that day. The manager is tries hard to find a solution and schedules a meeting Josie 4 weeks after her request.

1. Is there a major life event? What is it?
2. Is the manager required to grant part or all of Josie's request?
3. Is there a bona fide business reason for denying part of all of Josie's request?
4. Is the manager's response timely?



# SCENARIOS - COMPENSATION FOR WORK SCHEDULE CHANGES

Which of the following situations requires additional pay for work schedule changes after the schedule is posted?

1. **Employee calls out sick.** Manager calls all employees on the roster to find replacement coverage. Maria picks-up the shift.
2. **Business is slow.** Manager asks currently-working employees if anyone wants to go home early, Jose accepts the offer and leaves 90 minutes early.
3. **Business is booming.** Manager sends a mass text to all employees with notice of additional hours. Erica accepts two shifts.
4. **Business is uncertain.** Manager adds an “open shift” on the posted schedule and asks employees to sign-up if they are interested.
5. **Weather is wretched and gloomy.** Manager of an outdoor café sends all employees home, but stays herself to staff the business solo.
6. **A tree fell on the store during the windstorm.** The store is closed for a week and all shifts are cancelled.

*seattle.gov/laborstandards*  
*laborstandards@seattle.gov*  
**206-684-4500**

