**Alternative Workweek Schedules**

**Election Procedures ©**

**1. Determine work unit for the Alternative Workweek Schedule (AWS).**

1. "Affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit.
2. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met.
3. Do not include exempt employees.
4. Wage Orders 14 & 15 do not allow for an AWS.

**2. Prepare written proposal of Alternate Work Schedule**

1. Consider how wages, hours and benefits are affected. Include:

Overtime

Vacations

Holidays

Sick pay

1. Designate number of workdays and work hours that are regularly recurring. Some rules are:
2. No day may have more than 10 hours paid at straight time. It is possible to include 11- or 12-hour days if the hours over 10 are paid at 1 ½ times the regular rate.
3. Three 12-hour days ( at straight time) are allowed in the health care industry under Wage Orders 4 & 5. Twelve hour days are also allowed for offshore oil and gas workers under Wage Order 16.
4. No day may have less than 4 hours. However, there is no minimum number of hours in Wage Order 16).
5. No week may have more than 40 hours, but it may have less.
6. There must be two consecutive days off each workweek under Wage Orders 1,2,3,6,7,8,11,12,13.
7. The actual days of the week, i.e., Monday, Tuesday Wednesday, Thursday, within that AWS need not be specified in the proposal.
8. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. Such choice may be subject to reasonable conditions, such as a seniority system or random selection. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

* The AWS may vary, but it cannot be an on-call system. The schedule must be predetermined and predictable. For example, four 10-hour days one week, three 10 hour days the next week or four 10-hour days one week and three 9-hour days plus one 10-hour day the next week. After the pattern is established it will repeat.

1. Employees on an AWS receive time and one half time after the straight time limit for that day and double time after 12 hours. For work on an extra day, the pay is time and one-half for the first 8 hours and double time after 8.
2. Note: special rules apply to AWS for workers in the health care industry.
3. Failure to make full disclosure of how employees are affect by the AWS will make it null and void.

**3. Prepare written disclosure in appropriate language(s)**

An employer shall provide the disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language.

**4. Hold meeting at least fourteen (14) days prior to voting to discuss the effects of the alternative workweek schedule.**

No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this regulation shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees.

** Mail disclosure to any employees unable to attend meeting**

* Failure to comply with this will make the election null and void.

**6. Hold secret ballot election. The elections must be**

1. Held during regular working hours at the employees' work site.
2. Held at the worksite of the affected employees
3. The employer shall bear the costs of conducting the election.
4. Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek.
5. **In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit.**

* An employee in the affected group who does vote must be counted as a "no" vote.

**8. Report election within thirty (30) days after the results are final to the Division of Labor Statistics and Research**

The report shall include:

* Company name, phone number, address, contact person
* Date of election
* Statement of passage or failure of the election
* Election results and size of unit, i.e., 50 out of 60 affected employees voted in favor of the alternative workweek schedule
* Description of the actual Alternative Workweek Schedule that is the subject of the election
* *If more than one person voted:* a statement that the vote was a written, secret ballot, and that it passed by at least two-thirds of the vote.
* *If only one person voted:* a statement that the vote was a written ballot and that the one person voting voted in favor of the alternative workweek schedule

*Do not send actual ballots*

Send to:

Division of Labor Statistics and Research

Attention: Alternative Workweek Election Results

P.O. Box 420603

San Francisco, Ca 94142

**9. Implement alternate work schedule**

1. Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least thirty (30) days after the announcement of the final results of the election.
2. An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.
3. An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this Section and who is unable to work the alternative workweek schedule established as the result of that election.
4. Employees who are subsequently transferred or hired into the unit are subject to the Alternate Workweek Schedule.

**10. Repealing the Alternative Workweek Schedule**

An employer may terminate an alternative workweek schedule unilaterally without holding a repeal election, but only after providing reasonable advance notice to employees.

Employees can repeal an alternative workweek schedule by holding another secret ballot vote, using the following procedure:

• Employees must petition to repeal the schedule. One-third of the affected employees must sign the petition for a repeal vote.

• You must hold a new secret ballot election to vote on a repeal of the schedule. A two-thirds vote of the affected employees is required to reverse the alternative workweek schedule. The election must take place during regular working hours at the employees' worksite.

Hold the election to repeal the alternative workweek schedule not more than 30 days after the petition is submitted to you. An employer can't be required to hold an election to repeal an alternative workweek more often than every 12 months after the date that the same group of employees voted in an election held to adopt or repeal the alternative workweek schedule (exception: six months under Wage Order 16).

Exception: For alternative workweek schedules adopted under Wage Order 4, Professional, Technical, Clerical, Mechanical and Similar Occupations and Wage Order 5, Public Housekeeping Industry, between October 1, 1999 and October 1, 2000, a new secret ballot election to repeal that alternative workweek schedule is not covered by the limitation of 12-month intervals between elections.

If the alternative workweek schedule is revoked, you must comply within 60 days. The Labor Commissioner can grant an extension if you can show that revoking the schedule within 60 days would cause undue hardship on normal business operations.

8/2017

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