



City of Los Angeles Fair Work Week Ordinance:

Frequently Asked Questions (FAQ)

Updated as of 3/15/2023

This document contains answers to questions that are frequently asked about the new City of Los Angeles Fair Work Week Ordinance (FWWO) and Office of Wage Standards Ordinance, or Los Angeles Municipal Code (LAMC) Sections 185 and 188, respectively.

General

1. Who is a Covered Employer?

A covered Employer must satisfy **all** of the following criteria:

- a) Identifies as a retail business in the [North American Industry Classification System](#) (NAICS) under Retail Trade categories 44-45;
- b) Has at least 300 employees globally; and
- c) Exercises control (directly or indirectly) over the wages, hours or working conditions of any Employee.

2. What is a retail business?

A retail business is any business whose principal [North American Industry Classification Systems](#) (NAICS) code is within the retail trade categories and subcategories 44 through 45. If the business has more than one unique line of business and identifies with more than one NAICS code, the OWS will consider the NAICS code that corresponds with the business's principal business activity, which is the activity that the business derives the largest percentage of its total receipts.

3. How is 'regular rate of pay' calculated for Predictability Pay or premium pay under the FWWO?

The regular rate of pay owed to an Employee for Predictability Pay or premium pay should be calculated in the same manner as the regular rate of pay when calculating overtime premiums.

4. How does the FWWO apply to mobile workers who may travel in and out of the City?

Regardless of where an Employer is located, the FWWO applies to a covered retail Employee who performs at least two hours of work in a particular week within the City of Los Angeles.

To determine if a workplace or job site lies within the City limits, you may use Neighborhood Info (<http://neighborhoodinfo.lacity.org/>). Follow the exact instructions of this website. If an address is located within the boundaries of the City of Los Angeles and is correctly entered, then the search will locate the address on the map with detailed address information.

The FWWO may not apply to a retail employee who is traveling through the City with no employment related stops. Time spent in the geographic boundaries of the City solely for the purpose of traveling through Los Angeles (from a point of origin outside Los Angeles to a destination outside Los Angeles) with no employment-related or commercial stops in Los Angeles except for refueling or the Employee's personal meals or errands is not covered by the FWWO.

Good Faith Estimate

5. What information is required with a Good Faith Estimate?

The Good Faith Estimate of an Employee's Work Schedule should include:

- a) The estimated number of hours that the Employee will be expected to work each week. This number shall not be a range of hours;
- b) The days of the week the Employee can expect to work, or the days of the week that the Employee will not be expected to work. This shall not include all days of the week;
- c) The times or Shifts the Employee can expect to work, including start and end times. The number of hours or Shifts shall be defined as not more than 50% greater than the estimated number of expected hours defined in (a). The Employer shall not state the estimate as all work Shifts for which the Employer staffs its workplace;
- d) The locations that the Employee will be expected to work. The Employer shall not state the estimate as all Employer work locations if there are multiple worksites; and
- e) Whether the Employee can expect to work any On-Call Shifts.

6. Is there a requirement for a new Good Faith Estimate if there are changes to the Employee's Work Schedule?

No. But if actual work hours substantially deviate from the initial estimate, Employers must have a documented legitimate, business reason that was unknown at the time of the estimate to substantiate the deviation.

7. Is there a requirement for acknowledgement or consent on the part of the Employee when provided a new or revised Good Faith Estimate?

Although no acknowledgement or consent from the Employee is required, in the event of an investigation, the burden will be on the Employer to substantiate that the estimate was provided timely to an Employee.

Rest Between Shifts

8. Can an Employer schedule an Employee for multiple Shifts on the same work day?

The Ordinance does not prohibit the Employer from scheduling an Employee for multiple shifts on the same work day. However, if the ten (10) hour required rest period between Shifts is not observed, then the Employer is required to obtain consent from the Employee in writing, and premium pay is required for the Shift that follows the insufficient rest period.

9. For Shifts not separated by ten (10) hours, does premium pay apply to all hours or only those not separated by at least ten (10) hours?

If an Employee agrees in writing to work shifts not separated by at least ten (10) hours, the Employer must compensate the Employee with premium pay for all hours in the second Shift. Premium pay shall be equal to 1.5 times the Employee’s regular rate of pay. Premium pay shall not be required for any of these hours that require overtime pay.

Predictability Pay

10. If an overtime premium is paid for a Shift, then is Predictability Pay due?

No. For any hours that the Employer pays an overtime premium under California Labor Code Section 510, the Employer does not need to provide Predictability Pay. However, the Shift must be paid at the overtime premium. For instance, even if an Employee works an additional Shift early in the week (paid at a non-overtime rate) that results in overtime later in the work week, Predictability Pay would still be due for that additional Shift.

11. If an Employer asks all Employees if they would voluntarily leave a Shift early without pay, would Employees who volunteer to leave be due predictability pay?

Yes, so long as the Employer reduces their Work Schedules by at least 15 minutes. This would still be considered an Employer-initiated change and Employees would be due Predictability Pay if they voluntarily accept the offer.

Additional Work Hours

12. Does an Employer need to offer additional hours to all Employees, even if it triggers an overtime premium?

No. An Employer does not need to offer or assign additional hours to Employees if the additional hours would result in the payment of a premium rate under California Labor Code Section 510.

Example – An Employee is normally scheduled for 34 hours each week. An offer of an additional 8-hour Shift on Mondays is made to all Employees and the Employee would like to accept. Although the Shift is early in the week, meaning the Shift would not be paid at an overtime premium, the Employer is not required to assign the Employee the full 8-hour Shift if this would cause the Employee to regularly work hours that trigger an overtime premium. Instead, the Employer can assign the Employee a partial Shift, up to the number of hours that would result in the Employee earning an overtime premium.

Enforcement

13. Are Employers liable for monetary penalties and fines imposed by the City starting April 1?

The FWWO provides a 180-day implementation period, and the City will not impose penalties or fines on Employers for violations that occur before September 28, 2023. However, during the 180-day period, an Employee or the OWS may bring a potential violation to an Employer's attention and the Employer will be required to correct any actual violations (including curing the failure to pay Predictability Pay).

14. Are Employers liable for monetary penalties and fines resulting from a private right of action filed after the law's effective date of April 1?

The intent of the Ordinance was to provide a 180-day grace period during which the City will not assess penalties or fines against Employers for violations that occur. However, the City cannot guarantee how a Court might adjudicate a private civil action during the first 180 days after the Ordinance becomes effective.

15. Will Employers have a chance to cure a possible violation before a complaint is filed with the City?

An Employee who believes a violation has occurred must inform the Employer in writing of the suspected violation, along with supporting documentation. Employers have 15 calendar days from the receipt of this notification to take action to cure any violations.

Employers should cure the alleged violations and provide applicable restitution to Employees or be able to demonstrate they are in the process of curing the alleged violations at the end of the cure period. An example would be a written commitment by the Employer to cure previously overlooked Predictability Pay in an Employee's next paycheck, which may be issued outside the 15-day cure period.

If the Employer has failed to cure the violation within the 15-day cure period, the Employee may file a complaint with the OWS. When filing a complaint, the

Employee must submit a copy of the written notice provided to the Employer, and any correspondence between the parties.

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The City of Los Angeles can only advise Employers how to comply with the Los Angeles FWWO. It cannot advise an Employer how to comply with State law. Please contact the California State Labor Commissioner for information on compliance with State law.

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