

Fair Work Week Ordinance

Module 2 – Employer Responsibilities

Office of Wage Standards
Bureau of Contract Administration
September 2023



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This presentation is a summary of certain provisions of the Fair Work Week Ordinance created for your convenience.

For complete requirements, please refer to LAMC Ch. XVIII Art. 5 Sec. 185 & Art. 8 Sec. 188.

FAIR WORK WEEK
LA



Fair Work Week Eligibility

Covered Employer

- ✓ Identified as a retail business
- ✓ Exercises control over wages, hours or working conditions of Employees; and
- ✓ Has 300 or more employees globally.
- Additional criteria for franchisees and subsidiaries.

Covered Employee

- ✓ Performs at least 2 hours of work within the City in a work week
- ✓ Qualifies for minimum wage under State law; and
- ✓ Works at a location that supports retail operations.



Key Responsibilities

1. Posting Workplace Poster of Employee Rights
2. Providing Advance Notice of Work Schedules
3. Predictability Pay for Schedule Changes
4. Scheduling Adequate Rest Between Shifts
5. Good Faith Estimate of Work Schedules
6. Offering Hours Before Hiring
7. Shift Protections






Employer Responsibility 1: Workplace Poster

- Employers must post the Fair Work Week poster in a conspicuous place at any workplace or job site
- English and any other language spoken by at least 5% of the Employees at the workplace or job site

Available at wagesla.lacity.org

Post in a Conspicuous Place at any Workplace or Job Site. Violators Shall be Subject to Penalties.



Employers of retail businesses with 300+ employees globally are required to provide fair work week employment standards for workers according to the City of Los Angeles Fair Work Week Ordinance. These requirements apply to Employees who work at least two hours in a particular week for a covered Employer in the City of Los Angeles.

The Fair Work Week Ordinance is effective April 1, 2023. For complete requirements of the Fair Work Week Ordinance, please refer to Los Angeles Municipal Code Chapter XVIII Art. 5 Sec. 185 and Art. 8 Sec. 188.

EMPLOYEE RIGHTS

GOOD FAITH ESTIMATE
Employer shall provide each new Employee with a written Good Faith Estimate of Employee's Work Schedule before hiring. For existing Employees, the estimate must be provided within ten (10) days of an Employee's request.

ADVANCE NOTICE
Employee must receive written notice of Work Schedule at least 14 calendar days before the start of the work period. Employee may decline any hours, Shifts or work location changes made after the advance notice deadline.

REST BETWEEN SHIFTS
Employee is not required to work a Shift that starts less than 10 hours from their last Shift without their written consent. Employee receives premium pay of time and-a-half for the Shift following the insufficient rest period.

REQUEST PREFERENCES
Employee may request a preference for hours, times, or work locations. Employer may accept or decline the request, with written notification of the reason for denial.

SHIFT COVERAGE
Employee is not required to find coverage for missing a Shift or partial Shift for reasons protected by law.

SHIFT PRIORITY
Additional work hours must be offered to current Employees before Employer can hire new workers.

PREDICTABILITY PAY
Employee is entitled to Predictability Pay for Employer-initiated changes to Work Schedules made less than 14 days before the start of the work period. Subject to certain exceptions, Employees do not give up their right to Predictability Pay when they voluntarily agree to such changes.

Employer-initiated Change	Predictability Pay
Increase in hours that exceed 15 minutes	One (1) hour at the Employee's regular rate of pay
Change to the date, time, or location (but no change in hours)	One (1) hour at the Employee's regular rate of pay
Reduction of hours by at least 15 minutes	Hours not worked at one-half the Employee's regular rate of pay
On-call shift, when the employer does not call the employee to perform work	Hours not worked at one-half the Employee's regular rate of pay

The Los Angeles Office of Wage Standards Ordinance grants authority to the Bureau of Contract Administration, Office of Wage Standards to conduct investigations and impose penalties and administrative fines for violations of the Fair Work Week Ordinance.

Los Angeles Municipal Code Ch. XVII Art. 5 Sec. 185.12 and Art. 8 Sec. 188.04 protect Employees from any discrimination or retaliation for exercising their rights to receive a fair work week.

For more information, please contact the Office of Wage Standards at 1-844-WAGESLA (924-3752) or email wagesla@lacity.org or visit <http://wagesla.lacity.org/>.

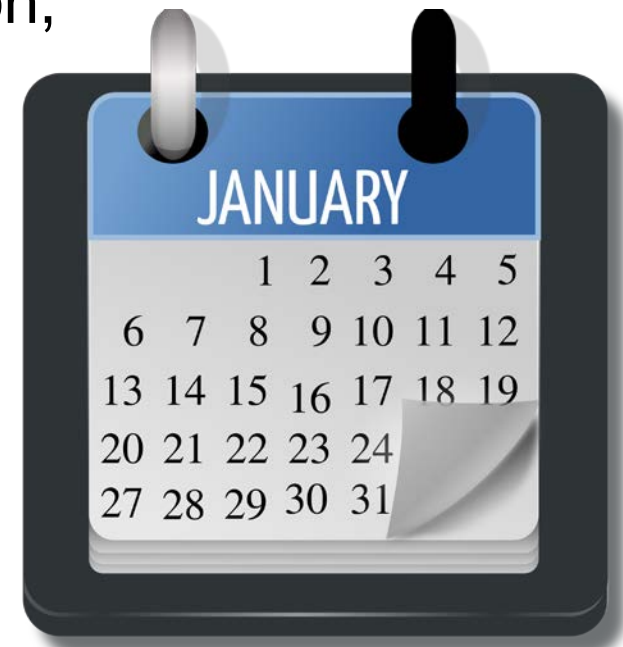
As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and upon request, will provide reasonable accommodations to more-explicitly access its programs, services, and facilities.

FWWO Workplace Poster



Employer Responsibility 2: Advance Notice

- Employee Work Schedules must be available **in writing** at least 14 days in advance of the start of the schedule.
 - Posted in an accessible location, visible to all Employees, or transmitted electronically
 - Must cover at least 7 consecutive days





Employer Responsibility 2: Advance Notice

Employer-initiated schedule changes:

- ✓ You must provide **written notice** to the Employee for changes made less than 14 days before the start of the schedule.
- ✓ If the Employee consents to additional work hours or shift changes not already in the schedule, then the **consent must be in writing**.
- Employees have the right to decline changes to their Shifts (except cancellations) that are made with less than 14 days notice.





Employer Responsibility 3: Predictability Pay

If Employees accept certain Employer-initiated changes made with less than 14 days' notice, they may be owed compensation in addition to pay for hours worked. This is known as **Predictability Pay**.

Employer-initiated Change	Predictability Pay
Increase in hours that exceed 15 minutes	One (1) hour at the Employee's regular rate of pay
Change to the date, time, or location	One(1) hour at the Employee's regular rate of pay for each change
Reduction of hours by at least 15 minutes	Hours not worked at one-half the Employee's regular rate of pay
On-call shift, when the employer does not call the Employee to perform work	Hours not worked at one-half the Employee's regular rate of pay



Employer Responsibility 3: Predictability Pay Scenarios

Scenario 1: Changes to Shift

One week before a covered Employee's schedule begins, the Employer reschedules their shift from Monday at 8:00 AM to Tuesday at 12:00 PM. The number of hours and the location of the shift do not change.

Q: If the Employee consents to this change, how many hours of Predictability Pay should they be compensated?

The Employee should be compensated with 2 hours of Predictability Pay at the Employee's rate of pay

- 1 hour for the change to the day of the shift (*Monday to Tuesday*), and
- 1 hour for the change to the time of the shift (*8:00 AM to 12:00 PM*).



Employer Responsibility 3: Predictability Pay Scenarios

Scenario 2: Addition of Hours

An Employee is working a shift scheduled for 12:00 PM – 5:00 PM (5 hours). In the middle of the shift, the Employee is asked to stay one (1) additional hour, extending their shift from 12:00 PM – 6:00 PM (6 hours).

Q: If the Employee consents to this change, how many hours of Predictability Pay should they be compensated?

The Employee should be compensated with 1 hour of Predictability Pay at the Employee's regular rate of pay

- 1 hour for the increase in hours exceeding 15 minutes (*The Shift changes from 5 hours to 6 hours*)



Employer Responsibility 3: Predictability Pay Scenarios

Scenario 3: Cancellation of Shift

An Employee is scheduled for an “On-Call” Shift for Monday from 12:00 PM – 5:00 PM (5 hours). The Employee is told the day before that they no longer need to come to work that day.

Q: How many hours of Predictability Pay is the Employee entitled to?

The Employee is entitled to 5 hours of Predictability Pay paid at half ($\frac{1}{2}$) the Employee’s regular rate of pay.



Employer Responsibility 3: Predictability Pay

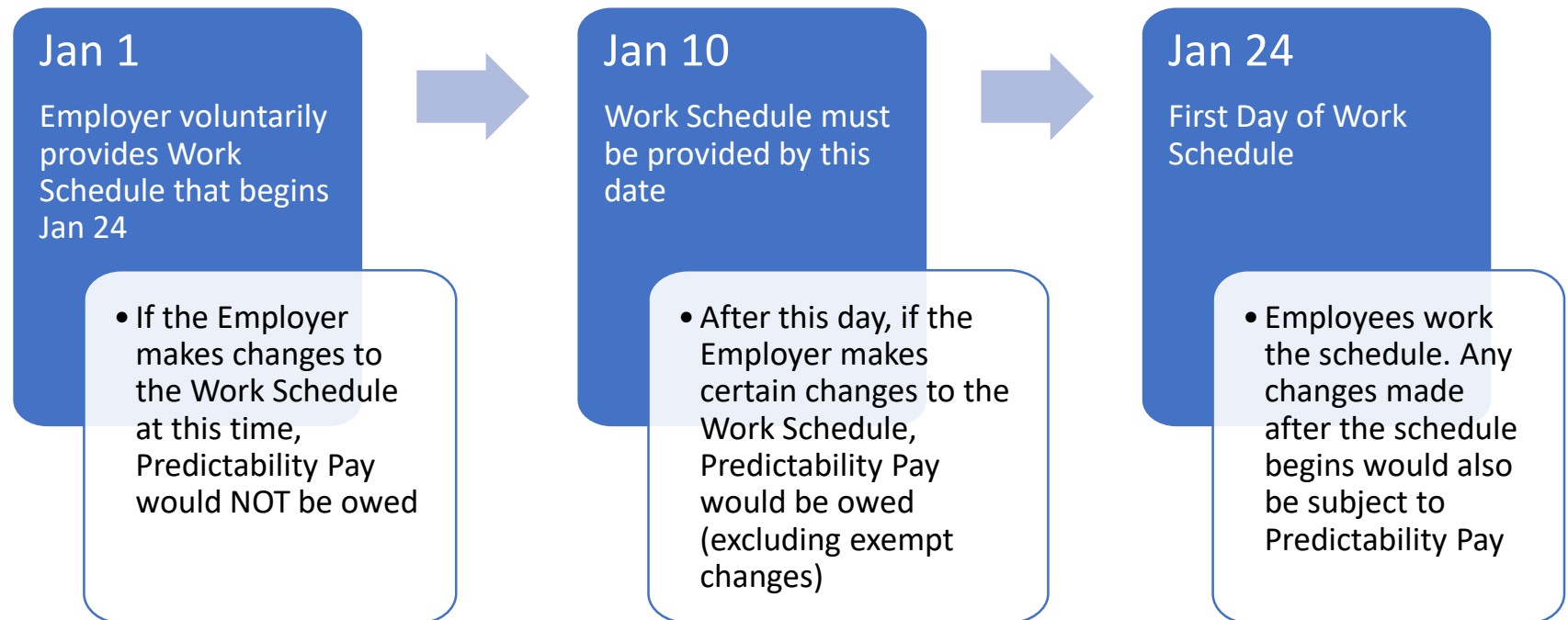
Exemptions:

- Employee initiates the requested schedule change
- Employee accepts a change due to an absence of another scheduled Employee.
 - Employer must communicate that accepting this change is voluntary, the Employee has the right to decline, and no Predictability Pay would be paid for this change.
- Employee accepts additional hours offered by the Employer before hiring a new Employee
- Employer's operations are compromised pursuant to law or force majeure
- Employee's hours are reduced due to an Employee violation of a law or the Employer's lawful policies
- All additional hours worked are paid at an overtime premium



Employer Responsibility 3: Predictability Pay

For a Work Schedule that begins on Jan 24, when do changes trigger Predictability Pay?





Employer Responsibility 4: Rest Between Shifts

- Employers must provide a rest period of 10 hours if the Employee is scheduled for a shift that ends on one day and then starts another shift the next day.
- Employers must obtain an Employee's **written consent** and pay the Employee time and a half (1.5x) for the Shift not separated by 10 hours.
- Split shifts are not qualified for the rest break premium under the FWWO.



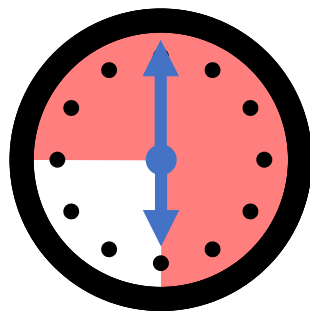


Employer Responsibility 4: Rest Between Shifts Example

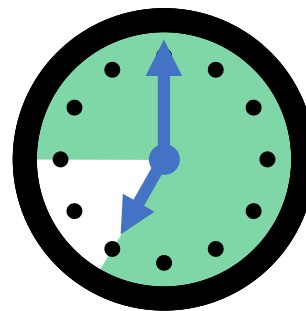
Example:

An Employee's Shift on the previous day ended at 9:00 PM and their next day's Shift begins at 6:00 AM.

The Shifts are separated by a rest period of less than 10 hours. Therefore, the Employer must provide premium pay of 1.5 times the Employee's regular rate of pay for the entire Shift that begins at 6:00 AM the next day (excluding any hours that must be paid an overtime premium).



9 hours of rest



10 hours of rest



Employer Responsibility 5: Good Faith Estimate

- The **Good Faith Estimate** is a prediction of the number of hours and Shifts that could be included on an Employee's Work Schedule.
- Employers must provide all Employees with a **written Good Faith Estimate**
 - *New Employees*: Before hiring
 - *Current Employees*: Provided within 10 days of an Employee's request
- The Good Faith Estimate must also outline the FWWO rights. The easiest way is to provide a copy of the poster.



Employer Responsibility 5: Good Faith Estimate

- Substantial deviation
 - Although, the Good Faith Estimate is not an exact prediction of the Employee's future schedule, if an Employee's actual work hours substantially deviate from the estimate, Employers must have a **documented**, legitimate, business reason that was unknown at the time of the estimate, to substantiate the deviation.
 - See the Rules and Regulations for the definition of "substantially deviate."



Employer Responsibility 6: Shift Priority

- Before hiring new Employees, Employers must offer additional work hours (the hours the new Employees would work) to eligible Employees.



- Employers do not need to make an offer of additional hours to an Employee, if the hours would result in overtime.
- The offer must be given in writing 72-hours prior to hiring a new Employee
- Employees have 48 hours to accept the offer **in writing**
- Employees who accept additional work hours from this offer are not entitled to Predictability Pay if it results in a schedule change from the Work Schedule



Employer Responsibility 6: Shift Priority Example

A drugstore in the City of Los Angeles notices an increase in traffic due to the opening of a new building next door. The store decides it needs coverage for an additional 30 hours per week and wants to hire new Employees to take on those hours.



Q: What are the steps the store must take before hiring new Employees?



Employer Right 6: Shift Priority Example

The Employer wants to hire a new Employee to cover additional hours

If current Employees are qualified to work these hours and working these hours would not result in overtime, they must be given priority to work these additional hours.

At least 72 hours before hiring a new employee

Hours must be offered **in writing** to current Employees.

Employees have 48 hours to accept some or all of the hours.

48 hours after offer

(A) If no Employees respond, proceed with hiring, OR

(B) If there are unclaimed hours, then distribute accepted hours and proceed with hiring for the remainder.



Employer Responsibility 7: Shift Protections

SHIFT PREFERENCES

- If an Employee requests a preference for certain hours, times, or locations of work, you may accept or decline the request. However, you must notify the Employee, of the reason for any denial **in writing**.

SHIFT COVERAGE

- An Employer cannot require an Employee to find coverage for a Shift if they are unable to work for reasons protected by the law.



Additional Resources

- **Visit us at WAGESLA.LACITY.ORG** for:
 - ✓ Fair Work Week Ordinance text
 - ✓ Rules and Regulations
 - ✓ Frequently Asked Questions (FAQs)
 - ✓ How to file a complaint
- **Follow us @WageStandardsLA** on *Instagram* and *Twitter* for important announcements and weekly education posts on Fair Work Week, Minimum Wage, and other worker protection laws.



Contact Us



1-844-WAGESLA (924-3752)



wagesla@lacity.org



<https://wagesla.lacity.org>



@WageStandardsLA