



Federal Legislation to Address Volatile Job Schedules

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As Workers Struggle with Volatile Schedules, Signs of Change Emerge

Volatile job schedules are becoming the norm, especially for low-wage workers. Many workers have only a few days'—or even hours'—notice of their schedules. Moreover, the timing of their shifts, the number of hours they receive, and the size of their paychecks fluctuate from week to week. This imposes serious economic, personal, and health strains on workers and their families. Unpredictable, unstable schedules make arranging child care, transportation, and other activities extremely challenging.

As public awareness of these issues has increased in recent years,ⁱ workers, advocates, and policymakers have begun to take action. Across the country, state and local legislators have introduced bills that would establish minimum labor standards for fair scheduling.ⁱⁱ Government agencies have begun to probe employer scheduling practices, questioning the legality of abusive job scheduling practices like on-call shifts.ⁱⁱⁱ And as a result of worker organizing, some businesses are voluntarily establishing better scheduling practices, though these changes will need to be closely monitored to ensure accountability.^{iv} Finally, the Schedules that Work Act has been reintroduced in Congress with considerable support from national, state, and local organizations; forward-thinking businesses; and concerned legislators. Although addressing volatile scheduling will require a concerted, long-term effort, these are hopeful signs for the future.

This fact sheet provides key data points illustrating the scope and nature of the volatile scheduling problem. It also details the Schedules that Work Act, which would create a federal standard to protect workers.

Many Workers Experience Volatile Scheduling Practices

- **Both full- and part-time workers have irregular schedules.** About 17 percent of the workforce experiences unstable work shift schedules, which includes irregular, on-call, split, and rotating shifts.^v Part-time workers are hit especially hard, with more than a quarter affected by irregular schedules.^{vi}
- **Many part-time workers would prefer more hours.** About 6.5 million workers are in part-time jobs despite a desire for more employment.^{vii}
- **Workers receive little notice of their schedules.** A recent study found that 40 percent of hourly workers ages 26 to 32 receive one week or less advance notice of their job schedules.^{viii} In a study of low-wage workers in the District of Columbia, nearly half received less than one week's notice of their schedules and one-third received less than three days' notice.^{ix} A 2012 study of retail workers in New York City found that just 17 percent had a set schedule, while 70 percent received their schedules less than one week before their shifts.^x

- **Employees' schedules fluctuate drastically from week to week.** Three-quarters of early-career, hourly workers experience fluctuations in their weekly hours (more than eight hours per week on average). Half of these workers have no say in their schedules.^{xi}
- **Many workers are scheduled for on-call shifts, leading to even more uncertainty.** A recent report found that 2.78 million people in the U.S. work on call or as day laborers.^{xii}

Unfair Scheduling Practices Affect Economic Security, Child Wellbeing, and More

- **Work-family conflict is twice as common among those with irregular schedules.** While less than 11 percent of workers on regular schedules report frequent work-family conflict, more than one quarter of irregular or on-call shift employees experience such strain.^{xiii}
- **Parents are disproportionately affected by volatile schedules.** Among early-career, hourly working parents with children under 12, nearly 70 percent of mothers and 80 percent of fathers see their hours fluctuate by up to 40 percent.^{xiv}
- **Volatile schedules create major child care obstacles for working parents.** Many parents find it difficult to secure quality child care when they cannot predict their schedules or income. Such schedules also create barriers to child care subsidies for lower-income families.^{xv}
- **Fluctuations in job schedules are a major contributor to unstable incomes.** Among Americans with fluctuating incomes, work schedules are often the cause. A recent study by the Federal Reserve Board found that nearly one-third of Americans experience considerable fluctuations in their incomes. More than 40 percent of these workers attribute these ups and downs to irregular work schedules.^{xvi}
- **Volatile schedules severely affect workers' wellbeing.** The strain of these schedules results in poorer health, increased stress, marital strain, and other negative outcomes.^{xvii}

The Schedules that Work Act

Overview of the Act

The *Schedules that Work Act* would enable workers to request schedule changes without fear of retaliation. It would also give workers in certain industries known to have erratic scheduling practices more stable, predictable schedules. The bill applies only to employers with 15 or more employees.

The following provision applies to workers in all occupations.

Right to Request (and Receive) Flexible, Stable, or Predictable Schedules

- Workers have a right to **request** of their employers a flexible, predictable, or stable schedule.
- Workers falling into four categories have the additional right to **receive** such a schedule. These categories are: workers with caregiving obligations; workers with a second job; workers with serious health conditions; and workers enrolled in educational or job training programs. An employer can refuse the request if s/he has bona fide business reasons for doing so.

- To address the request, the employer must engage in a timely, interactive process with the employee to arrive at the desired schedule. For workers outside the four categories, the employer must engage in this process but has no obligation to provide the schedule.
- It is illegal to discriminate on the basis of membership (or perceived membership) in any of the four categories listed above. The employer cannot retaliate against employees who make requests for schedule changes and/or are granted schedule changes.

The following provisions apply to workers in three occupations: retail; food preparation and service; and building cleaning. The bill also empowers the U.S. Secretary of Labor to extend the protections described below to employees in additional occupations by certifying that those occupation are characterized by volatile scheduling practices (as indicated by specific set of criteria laid out in the legislation).

Advance Notification of Schedules

- On or before the first day of work for a new employee, employers must provide workers with their work schedules and minimum number of expected hours per month.
- Employers must provide employees with their schedules at least two weeks in advance.
- Once the schedule has been posted two weeks in advance, an employer must provide one extra hour of pay for each shift that is changed with less than 24 hours notice to the worker. If the reason for a shift change is the unexpected unavailability of an employee scheduled to work (e.g., another worker takes a sick day), the employer is not required to pay the extra hour.

Reporting Pay, Call-In Pay, and Split Shift Pay

- If an employee is sent home early from their shift, s/he is entitled to a minimum of four hours pay at the regular rate or full pay for his/her shift if it is less than four hours.
- If an employee is required to call in for a shift but is not given any work, s/he must receive at least one hour of pay.
- An employee must receive an extra hour of pay for each split shift s/he is required to work.

Further resources

For additional materials about job scheduling policy from CLASP and colleague organizations, visit **CLASP's National Repository of Resources on Scheduling Policy**: <http://www.clasp.org/pages/scheduling-resources>

Notes

ⁱ To see a host of recent news reports and blog posts on scheduling challenges, visit CLASP's National Repository of Resources on Job Scheduling Policy <http://www.clasp.org/issues/work-life-and-job-quality/scheduling-resources>.

ⁱⁱ National Women's Law Center, *Recently Introduced and Enacted State and Local Fair Scheduling Legislation*, May 2015, http://www.nwlc.org/sites/default/files/pdfs/recently_introduced_and_enacted_state_and_local_fair_scheduling_legislation_apr_2015.pdf.

ⁱⁱⁱ Yuki Noguchi, "New York Investigates Retailers For Unpredictable Work Schedules," *National Public Radio*, April 13, 2015, <http://www.npr.org/2015/04/13/399414298/new-york-investigates-retailers-for-unpredictable-work-schedules>

^{iv} Sapna Maheshwari, "Victoria's Secret Is Getting Rid Of On-Call Scheduling In Stores," *BuzzFeed*, June 29, 2015, <http://www.buzzfeed.com/sapna/victorias-secret-getting-rid-of-on-call-scheduling#.wrZz11V7ln>; Katie Lobosco, "Walmart's other promise to workers: Better schedules," *CNN Money*, February 19, 2015, <http://money.cnn.com/2015/02/19/news/companies/walmart-wages-schedules/>;

Jodi Kantor, “Starbucks to Revise Policies to End Irregular Schedules for Its 130,000 Baristas,” *The New York Times*, August 14, 2014, http://www.nytimes.com/2014/08/15/us/starbucks-to-revise-work-scheduling-policies.html?_r=0.

^v Lonnie Golden, *Irregular Scheduling And Its Consequences*, Economic Policy Institute, April 2015, <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences>. Data in this study comes from the General Social Survey. The author notes that these figures are likely low estimates.

^{vi} Ibid. Several smaller-scale studies on scheduling have recently been published. For examples, see: Ari Schwartz, Michael Wasser, and Merritt Gillard, et al., *Short Shifted: How Big Grocers and Retailers are Making Workers’ Jobs Unstable and Unpredictable*, Puget Sound Sage, June 2013, <http://www.pugetsoundsage.org/downloads/PSS%20Scheduling%20Brief%202013%200807-1.pdf>; San Diego State University Department of Sociology and Center on Policy Initiatives, *Shorted: Wage Shift, Time Theft, and Discrimination in San Diego County Restaurant Jobs*, June 2015, [https://d3n8a8pro7vhm.cloudfront.net/onlinecpi/pages/1065/attachments/original/1434401985/cpiWageTheftReportFINAL\(corrected6_15_15\).pdf?1434401985](https://d3n8a8pro7vhm.cloudfront.net/onlinecpi/pages/1065/attachments/original/1434401985/cpiWageTheftReportFINAL(corrected6_15_15).pdf?1434401985).

^{vii} U.S. Department of Labor Bureau of Labor Statistics, “The Employment Situation – June 2015,” Table A-8, July 2015, <http://www.bls.gov/news.release/pdf/empsit.pdf>.

^{viii} Susan J. Lambert, Peter J. Fugiel, and Julia R. Henly, *Schedule Unpredictability Among Early Career Workers in the US Labor Market: A National Snapshot*, University of Chicago, July 2014, http://ssascholars.uchicago.edu/einet/files/lambert.fugiel.henly_executive_summary_b.pdf. Data in this survey come from the National Longitudinal Study of Youth.

^{ix} Ari Schwartz, Michael Wasser, Merritt Gillard, et al. *Unpredictable, Unsustainable: The Impact of Employers’ Scheduling Practices in D.C.*, DC Jobs with Justice, June 2015, http://www.dcjwj.org/wp-content/uploads/2015/06/DCJWJ_Scheduling_Report_2015.pdf.

^x Stephanie Luce and Naoki Fujita, *Discounted Jobs: How Retailers Sell Workers Short*, Retail Action Project, March 2012, http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf.

^{xi} Lambert et al., *Schedule Unpredictability*.

^{xii} U.S. Government Accountability Office, “Letter to Honorable Kirsten Gillibrand on Contingent Workforce: Size, Characteristics, Earnings, and Benefits,” April 20, 2015, <http://www.gao.gov/assets/670/669766.pdf>.

^{xiii} Lonnie Golden, *Irregular Scheduling And Its Consequences*, Economic Policy Institute, April 2015, <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences>.

^{xiv} Ibid.

^{xv} Liz Ben-Ishai, Hannah Matthews, and Jodie Levin-Epstein, *Scrambling for Stability: The Challenges of Job Schedule Volatility and Child Care*, Center for Law and Social Policy, March 2014, <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>.

^{xvi} Board of Governors of the Federal Reserve System, *Report on the Equal Well-Being of U.S. Households in 2013*, United States Federal Reserve, July 2014, <http://www.federalreserve.gov/econresdata/2013-report-economic-well-being-us-households-201407.pdf>.

^{xvii} See citations in: Liz Ben-Ishai, Sasha Hammond, and Christina Warden, *Tackling Unstable and Unpredictable Work Schedules: A Policy Brief on Guaranteeing Minimum Hours and Reporting Pay Policies*, Center for Law and Social Policy, Retail Action Project, and Women Employed, March 2014, www.clasp.org/resources-and-publications/publication-1/Tackling-Unstable-and-Unpredictable-Work-Schedules-3-7-2014-FINAL-1.pdf.