

EMPLOYMENT

FACT SHEET

Bargaining for Schedule Fairness

September 2015

There are more than 23 million workers in low-wage jobs (that is, jobs typically paying \$10.50 per hour or less),¹ and two-thirds of these workers are women.² Low wages aren't the only problem in these jobs; they are also often marked by work scheduling policies and practices that pose particular challenges for workers.³ Workers in these jobs often face schedules that are rigid, unpredictable or unstable, which can make it impossible to successfully juggle responsibilities on and off the job.⁴

When workers have a voice in the workplace – either through a union or other forms of worker organizing – many have chosen to negotiate for the kind of schedule fairness that allows workers and their families to plan and manage their lives. Collective bargaining agreements and other organizing strategies have often successfully addressed the problems of schedule unpredictability and instability, lack of worker control over schedules, and involuntary part-time work.⁵ This fact sheet provides examples of collective bargaining agreements and other organizing solutions to abusive scheduling practices. These examples of fair schedules achieved through worker organizing provide models of workable solutions for workers and employers.

Unpredictable work schedules

Providing notice of work schedules a week or less in advance is common in many industries. This leaves workers with little or no notice about whether and when they will be scheduled for shifts, making it difficult or impossible to arrange child care, schooling, or a second job, or for a worker to manage his or her own serious medical condition.⁶

The examples below describe policies providing for advance notice of work schedules that workers have achieved through collective bargaining and other forms of worker organizing.

- Except in cases of emergency, the City of Oakland must post changes to work schedules, including shift starting times, at least ten working days in advance for members of Service International Employees Union (SEIU).⁷
- Members of Local 3 United Storeworkers Retail, Wholesale and Department Store Union who work at Bloomingdale's flagship store on East 59th Street in New York City receive their schedules twenty-one days in advance and must be notified of any changes to the schedule at least one week in advance.⁸
- In its contract with City of the Fraternal Order of Police, the City of Delaware, Ohio, recognizing "the benefit to be achieved from advance notice of scheduling," posts the work schedule for collective bargaining unit members at least six weeks in advance. If changes must be made, the effected union members must be notified as far in advance as possible.⁹
- OUR Walmart, a grassroots organization of Walmart workers, recently won an organizing victory when Walmart announced that it would provide its workers with two weeks' advance notice of their work schedules. And, by 2016, Walmart has promised it will offer some associates fixed schedules each week and provide all associates with their schedules at least 2.5 weeks in advance.¹⁰



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Unstable work schedules and involuntary part-time work

Workers in low-wage jobs often have schedules that vary from week to week or month to month. When work is slow, hours are often reduced.¹¹ Seventy-four percent of early-career adults (ages 26-32) in both hourly and non-hourly jobs report at least some fluctuations in the numbers of hours they worked in the previous months; for these workers hours fluctuate by more than an eight-hour day of work and pay in the course of an average month.¹² Many employees want to be working full-time, but unstable work schedules keep them working part-time. In 2014, one in five (20.7 percent) part-time workers worked part-time involuntarily.¹³ These “involuntary part-time” workers struggle to support their families with fewer hours and less pay.

The examples below describe collective bargaining agreements and other worker organizing efforts that have led to more stable schedules – either through minimum hours guarantees or protections from being sent home early without being paid for scheduled shifts.

- Cooperative Home Care Associates, a worker-owned staffing agency in New York City that has worked with SEIU Local 1199, guarantees employees 30 hours of pay each week, even when 30 hours of work are not available.¹⁴ To participate, employees must have worked at CHCA for three years, must accept all case assignments, and must work every other weekend.¹⁵
- Members of the Fraternal Order of Police in Delaware, Ohio, receive an annual stipend of \$500 for being subjected to the “on-call rotation.” In addition, if union members are called in outside of a regularly scheduled shift or for a call-in shift outside of the scheduled on-call rotation, the member must be paid three times his base hourly rate for the first hour and one and one-half times his base hourly rate for all other hours worked for which he is required to work.¹⁶
- SEIU Local 49 negotiated with Legacy Emanuel Hospital to create a policy through which all employees scheduled for work or who report to work at the employer’s request are guaranteed at least four hours of pay, even if they are sent home before working four hours.¹⁷
- Through Walmart’s new Access to Open Hours program, secured following years of worker organizing for more stable schedules, workers are now able to request open shifts in different departments to boost their hours.¹⁸ Under the program, available shifts are posted within the store, associates may request to work these shifts, and within 24 hours of requesting the shift, the associates are notified if they have been selected.¹⁹

Lack of worker control over schedules

Many low-wage workers have little meaningful input into the timing of their work hours. Workers on both variable and set schedules are often unable to make minor adjustments to their schedules without suffering a penalty.²⁰ Others are required to work too many hours: a 2014 analysis of the General Social Survey found that 28 percent of both hourly and salaried workers consider their overtime work to be mandatory.²¹

The examples below discuss collective bargaining agreements and other forms of worker organizing that have led to employees gaining more control over their work schedules.

- The California Nurses Association (CNA) routinely negotiates with hospitals to create policies that avoid mandatory overtime, except in the event of an emergency or disaster.²²
- American Federation of State, County and Municipal Employees (AFSCME) LOCAL 2191 negotiated with the City of Columbus to prohibit requiring mandatory overtime unless volunteers cannot be found to work the overtime and to allow employees scheduled for mandatory overtime to make reasonable requests to be excused.²³
- The Vermont State Employees Association (VSEA) collective bargaining agreement with the state of Vermont allows for the establishment of alternative work schedules, in which meal breaks and starting and quitting times may vary from pre-established schedules.²⁴ Alternative work schedules include flex time, job sharing, and a four day workweek.²⁵

Conclusion

Worker organizing can result in greater certainty for workers about when and how much they will work, thus improving workers' ability to care for themselves and their families, attend school or workforce training, or hold a second job. These policies lead to reduced turnover and absenteeism, and greater productivity.²⁶ The examples of practical solutions detailed above demonstrate that fair scheduling practices can work for both employers and employees.

1 This analysis uses \$10.50 or less per hour because \$10.50 in 2014 is roughly equivalent to \$12 in 2020 (see, David Cooper, John Schmitt and Lawrence Mishel, Economic Policy Institute, *We Can Afford a \$12.00 Federal Minimum Wage in 2020* (Apr. 2015), available at <http://www.epi.org/publication/we-can-afford-a-12-00-federal-minimum-wage-in-2020/>, which is the proposed new federal minimum wage in the Raise the Wage Act pending in Congress (2015).

2 National Women's Law Center (NWLC) calculations based on Miriam King et al., Integrated Public Use Microdata Series, CPS: Version 3.0 (IPUMS-CPS) (Univ. of Minn. 2010). Data are for 2013. All figures are for employed workers. Median hourly wages: Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES), May 2014 National Occupational Employment and Wage Estimates, available at http://www.bls.gov/oes/current/oes_nat.htm.

3 See generally NWLC, *COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-WAGE JOBS AND THEIR CONSEQUENCES* 1 (Jun. 2015) (outlining common scheduling challenges and their prevalence), available at http://www.nwlc.org/sites/default/files/pdfs/collateral_damage_fact_sheet_june_2015.pdf.

4 *Id.*

5 NWLC, *UNDERPAID AND OVERLOADED: WOMEN IN LOW-WAGE JOBS* 34 (2014), available at http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_lowwagereport2014.pdf.

6 See generally Nancy C. Cauthen, *Scheduling Hourly Works: How Last-Minute, Just-In-Time Scheduling Practices are Bad for Workers, Families, and Business* (Demos 2011), available at http://www.demos.org/sites/default/files/publications/Scheduling_Hourly_Workers_Demos.pdf. See also, *COLLATERAL DAMAGE*, *supra* note 3.

7 SEIU LOCAL 1021 & City of Oakland July 1, 2011- Jun. 30, 2013, 51 (Jul. 2011), available at <http://www.docstoc.com/docs/153153219/MEMORANDUM-OF-UNDERSTANDING-Between---City-of-Oakland>.

8 Local 3 United Storeworkers, "Bloomingdale's Workers Ratify New Five-Year Contract," Local 3 RWDSU Updates (May 2, 2012), <http://www.local3rwdsu.org/updates/detail.php?id=34>.

9 CBA, City of Delaware & the Fraternal Order of Police, Ohio Labor Council, Inc. Effective June 26, 2013-June 25, 2016, 31 (June 2013), available at <http://www.delawareohio.net/UserUploads/Users/DAS/Contracts/FOP%20Supervisors.pdf>.

10 Press Release, Walmart, In Letter to Associates, Walmart CEO Doug McMillon Announces Higher Pay (Feb. 19, 2015), available at <http://blog.walmart.com/in-letter-to-associates-walmart-ceo-doug-mcmillon-announces-higher-pay>.

11 See STEPHANIE LUCE & NAOKI FUJITA, *DISCOUNTED JOBS: HOW RETAILERS SELL WORKERS SHORT* 8, 12 (Retail Action Project 2012), available at http://retailactionproject.org/wp-content/uploads/2012/03/7-75_RAP+cover_lowres.pdf (reporting that only 17 percent of all workers surveyed and 10 percent of part-time workers had a set schedule).

12 SUSAN LAMBERT, PETER FUGIEL, & JULIA HENLY, *Precarious Work Schedules among Early-Career Employees in the US: A National Snapshot* 10 (August 2014), available at https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert-fugiel-henly_precarious_work_schedules.august2014_0.pdf.

13 NWLC calculations based on Bureau of Labor Statistics (BLS) Current Population Survey (CPS) Annual Table 20: Persons at work 1 to 34 hours in all and in nonagricultural industries by reason for working less than 35 hours and usual full- or part-time status available at <http://www.bls.gov/cps/cpsaat20.htm> (Last visited May 28, 2015). Note that this figure is for people at work part time during the reference week, rather than those who usually work part time. The annual average for people at work 1 to 34 hours during the reference week was 34.9m, compared to the 27.6m who usually work part time (see Table 8). Data on involuntary part-time workers also includes workers who usually work full time but worked between 1-34 hours during the reference week of the survey. These differences mean the numbers of voluntary and involuntary part-time workers do not add to the total (which is reported here as people who usually work part time). However, including data on those who usually work full time but are not working full time during the reference week for noneconomic reasons captures many people who are on vacation or otherwise missed a day of work.

14 Stu Schneider, *Cooperative Home Care Associates: Participation with 1600 Employees*, GEO, 2010, <http://www.geonewsletter.org/node/433>.

15 PHI, *Best Practices: Cooperative Home Care Associates* (Feb. 2010), available at <http://phinational.org/consulting/resources/best-practices/chca>.

16 CBA, City of Delaware & the Fraternal Order of Police, *supra* note 9, at 32, 34.

17 CBA, Legacy Emanuel Hospital & SEIU Local 49 effective July 1, 2014 through June 30, 2017 at 7, available at http://www.seiu49.org/files/2011/09/L49_LegacyEmanuel_Contract_2014-17_v1.pdf.

18 Press Release, OUR Walmart, *Winning Access to More Hours*, available at <http://forrespect.org/more-hours/>.

19 Davis Jamieson, *In Wake of Protests, Walmart Workers Find More Hours Within Reach*, HUFFINGTON POST, Apr. 7, 2014, available at http://www.huffingtonpost.com/2014/04/07/walmart-hours-part-time_n_5107174.html.

20 LIZ WATSON & JENNIFER E. SWANBERG, *FLEXIBLE WORKPLACE SOLUTIONS FOR LOW-WAGE HOURLY WORKERS: A FRAMEWORK FOR A NATIONAL CONVERSATION* 1 (May 2011).

21 Lonnie Golden, *EPI Briefing Paper #385: Flexibility and Overtime Among Hourly and Salaried workers: When You have Little Flexibility, You Have Little To Lose* 8 (Sept. 2014), available at <http://s1.epi.org/files/pdf/flexibility-overtime-hourly-salaried-workers.pdf>.

22 See, e.g., CAN/NNU: *Your Guide to Joining the RN Movement* (2010), available at <https://donate.nationalnursesunited.org/page/-/files/pdf/organize/101.pdf>; *National Nurses United Homepage*, <http://www.nationalnursesunited.org/site/entry/cna-about>.

23 CBA, The City of Columbus and AFSCME Local 2191, effective April, 2011-March, 2014 32, available at http://columbus.gov/uploadedfiles%5CHuman_Resources%5CHealthy_Columbus%5CBenefits%5CAFSCME%202191%202011-2014.pdf.

24 CBA, State of Vermont & Vermont State Employees Association, Inc. (VSEA) effective July 1, 2014-June 30, 2016 24, available at <http://www.dol.gov/olms/regs/compliance/cba/olms/public/800360.pdf>.

25 *Id.*

26 See generally Center for Law and Social Policy, *Job Schedules that Work for Businesses* (Nov. 2014), available at <http://www.clasp.org/resources-and-publications/publication-1/Job-Schedules-that-Work-for-Businesses.pdf>.