

# Schedules That Work

JULY 2017

The unfair and unpredictable scheduling practices of too many employers are causing millions of workers to struggle to meet their responsibilities at home and on the job, jeopardizing their ability to make ends meet and the overall strength of the economy. When working people do not know when they are scheduled to work, or for how many hours, they have a difficult time managing basic expenses, arranging for child care, continuing their education, getting a second job or pursuing job training. **Federal level scheduling standards would go a long way toward providing the predictability and financial stability working people and their families need.**

## Unpredictable Scheduling Practices are Hurting Working People and Their Families

Employer scheduling practices too often conflict with workers' basic need to know when, where, and for how long they are expected to work. An estimated one in six workers has an unstable schedule.<sup>1</sup> Many of these workers receive their schedules just days or hours before they are expected to work and are unable to request changes without fear of retaliation. Others are assigned "split shifts" or required to be "on call" with no guarantee of a shift or compensation.<sup>2</sup> **The result is uncertainty, lost pay and a lack of control for people who are trying to provide for themselves and their families.**

**Workers in low-wage industries are particularly vulnerable to unfair scheduling practices.**<sup>3</sup> More than 23 million Americans are in low-wage jobs, the majority in fast-growing service sector industries.<sup>4</sup> These workers often have little control over their schedules and are often given little or no advance notice of their hours.<sup>5</sup> Multiple studies of people employed in the retail and restaurant industries have shown that about half of these workers report learning their work schedules no more than one week in advance.<sup>6</sup>

**Unpredictable schedules make it especially difficult for women to meet their job and caregiving responsibilities.** Mothers are primary or sole breadwinners in half of U.S. households with children and are responsible for a disproportionate share of child and elder care.<sup>7</sup> At the same time, women, and especially women of color, comprise the majority of workers in low-wage occupations such as home health and personal care and food preparation, service and retail jobs.<sup>8</sup> These fast-growing occupations are the most likely to have unpredictable scheduling practices and to offer only part-time hours.<sup>9</sup> Women, and particularly low-income women, are also more likely than men to have nonstandard work hours, or hours that fall outside the traditional 9 a.m. to 5 p.m. workday.<sup>10</sup>

**Unpredictable scheduling practices are particularly harmful to parents and especially single mothers.** More than eight million U.S. households with minor children are headed by unmarried women,<sup>11</sup> and nearly 40 percent of those households have incomes below the poverty line.<sup>12</sup> More than six million low-wage workers are parents of minor children.<sup>13</sup> For parents who work nonstandard schedules, child care arrangements are particularly complex, involving multiple providers and informal caregivers.<sup>14</sup> Unpredictable schedules make it even more difficult to arrange for child care, and unpredictable pay makes it nearly impossible to know if there will be enough money to make ends meet.<sup>15</sup>

**Unfair scheduling practices hurt businesses.** People with nonstandard work arrangements report less job satisfaction and loyalty, which can decrease overall worker performance.<sup>16</sup> Unpredictable scheduling also leads to lower worker productivity and higher employee absenteeism and turnover,<sup>17</sup> which hurts both workers and businesses. “Just-in-time” scheduling practices can also lead to persistent understaffing, which is associated with poor customer service, reduced sales and an estimated 7 to 10 percent decline in profitability.<sup>18</sup>

**Unpredictable scheduling hinders the success of young workers.** Among early-career workers (26 to 32 years old) across all industries, close to half (44 percent) report having no input into their schedules and more than one third (38 percent) receive one week’s notice or less about their schedules.<sup>19</sup> When workers are forced to be “on call” or given schedules with little notice, they can’t commit to a second job or seek additional schooling or job training to improve their skills and future earning potential. Nearly half (48 percent) of 22-to-30-year-olds who were unable to complete post-secondary education report that work schedules were an obstacle to returning.<sup>20</sup>

## Fair Scheduling Standards Already Exist in Some States and Localities

In **Vermont, New Hampshire, San Francisco and Seattle**, workers can request flexible work schedules without fear of retaliation.<sup>21</sup> Working people in **California, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Rhode Island and the District of Columbia** are protected by laws that require employers to provide “reporting pay,” or to pay employees who report to work as scheduled but are sent home before completing their full shifts.<sup>22</sup> **California, New York and the District of Columbia** also require employers to provide “split-shift pay,” or to pay workers an additional hour of pay when they work multiple shifts in one day that are interrupted by non-paid, non-working periods.<sup>23</sup> **Seattle and Emeryville, Calif.**, require retail and fast food establishments, and **New York City** requires fast food establishments, to provide workers 14 days’ advance notice of schedules and “predictability pay,” or a set amount of pay for each shift that the employer cancels, changes or adds with less than 14 days’ notice.<sup>24</sup> **New York City** also guarantees workers in fast food establishments a right to rest between consecutive shifts and prohibits larger retail establishments from scheduling “on call” shifts.<sup>25</sup>

In 2017, **Oregon** passed the most comprehensive fair scheduling standard at the state level to date. When fully implemented, the law will require large retail, food service and hospitality establishments to provide workers a good faith estimate of weekly work hours upon hiring, two weeks’ advance notice of their schedules, predictability pay, a right to have

input into their work schedules and a right to rest between consecutive shifts.<sup>26</sup> Oregon's law is the first in the nation to include such a range of protections.

## America Needs Schedules That Work

**Despite local progress, millions of working people and their families still struggle without fair scheduling protections. The federal Schedules That Work Act (H.R. 2942/S. 1386) would help change that.**

The Schedules That Work Act would:

- ▶ **Give workers more control over their schedules.** The bill would guarantee workers the right to request more flexible or predictable work arrangements and, in some cases, to receive a more customized schedule.
  - ▶ Workers in businesses with 15 or more employees would have the right to make and have considered requests related to the hours, location and schedule they work, and to ask for minimal fluctuations in hours (among other things).
  - ▶ When a worker's scheduling request is made for certain priority reasons – health conditions, child or elder care, a second job, or continued education or job training – the employer would have to grant the request unless a bona fide business reason precludes it. When the request is made for other reasons, the employer would still have to consider and respond to the request.
  - ▶ Employers would be prohibited from taking adverse employment actions – such as cutting hours, demotions or termination – against workers who make scheduling requests.
- ▶ **Offer workers predictability and stability.** The bill would address some of the most common challenges facing those who work in retail, food service and cleaning – as well as other occupations to be determined by the Secretary of Labor – such as “on call” and “split-shift” scheduling. The bill would address these challenges by:
  - ▶ **Requiring “reporting pay.”** If an employee reports to work and is sent home before being permitted to work at least four hours, the employer would generally have to provide four hours' worth of wages.
  - ▶ **Requiring “call-in pay.”** If an employee is required to call in less than 24 hours before the start of a shift to find out whether to report to work, then the employer would be required to pay at least one hour's worth of wages.
  - ▶ **Requiring “split-shift pay.”** If an employee is required to work a daily schedule in which the hours worked are not consecutive, then the employer would be required to provide one additional hour of pay in recognition of the time spent waiting between shifts.
  - ▶ **Requiring clear expectations about hours and scheduling from the start.** Employers would be required to provide new employees with their work schedules and minimum number of expected work hours on or before their first day.
  - ▶ **Requiring clear expectations about hours and schedules on an ongoing basis.** Employers would also have to provide new schedules and expected work hours to employees at least 14 days in advance of a change. If an employer changes an

employee's schedule with less than 24 hours' notice, the employer would have to provide one additional hour of pay for each changed shift, except when changes are due to the unforeseen unavailability of other employees.

- ▶ **Requiring paystub transparency.** Employers would be required to identify any additional pay required by the bill on employees' paystubs. Paystubs would identify both the number of hours and the requirement from which the additional pay resulted.
- ▶ **Allowing the Secretary of Labor to designate additional occupations that should also be covered by these protections.** An occupation would qualify if at least 10 percent of employees in that occupation have variable hours or receive their schedules with less than two weeks' notice.

## **The Schedules That Work Act would establish national fair scheduling standards that would help provide economic security for working families and better enable working people across the country to meet their responsibilities at home and on the job.**

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6 See note 2. See also Center for Law and Social Policy and UCLA Labor Center. (2016, December). *Juggling Time: Young Workers and Scheduling Practices in the Los Angeles County Service Sector*. Retrieved 14 July 2017, from [http://www.clasp.org/resources-and-publications/publication-1/UCLA\\_YoungWorkerScheduling.pdf](http://www.clasp.org/resources-and-publications/publication-1/UCLA_YoungWorkerScheduling.pdf)

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11 U.S. Census Bureau. (2016). *American Community Survey 1-Year Estimates 2015, Table DP02: Selected Social Characteristics in the United States*. Retrieved 14 July 2017, from [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_15\\_1YR\\_DP02&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_DP02&prodType=table) (Calculation uses family households headed by females living in a household with family and no husband; a family household includes a householder, one or more people living in the same household who are related to the householder, and anyone else living in the same household)

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21 Vt. Stat. Ann. tit. 21, § 309; N.H. Rev. Stat. Ann. § 275: 37-b; S.F., Cal., Admin. Code ch. 12Z.4; Seattle, Wash., Municipal Code § 14.22.070.

22 Cal. Code Regs. tit. 8, §§ 11010-11050; Conn. Agencies Regs §§ 31-62-D2, -E1; 454 Mass. Code Regs. 27.04; N.H. Rev. Stat. Ann. § 275:43-a; N.J. Admin. Code § 12:56-5.5; N.Y. Comp. Codes R. & Regs. tit. 12, § 142-2.3; Or. Admin. R. 839-021-0087; R.I. Gen. Laws § 28-12-3.2; D.C. Mun. Regs. tit. 7, § 907.1.

23 Cal. Code Regs. tit. 8, §§ 11010-11050; N.Y. Comp. Codes R. & Regs. tit. 12, § 142-2.4; D.C. Mun. Regs. tit. 7, § 906.

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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at [NationalPartnership.org](http://NationalPartnership.org).

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