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Partial

Federal Personnel Manual System

FPM Bulletin

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Washington, D. C. 20415
August 19, 1982

SUBJECT: Enactment of the Federal Employees Flexible and Compressed Work Schedules Act of 1982

Heads of Departments and Independent Establishments:

General

1. The Federal Employees Flexible and Compressed Work Schedules Act of 1982 was signed by the President on July 23, 1982, as Public Law 97-221. The law was effective upon enactment. The Act continues existing Alternative Work Schedules (AWS) programs uninterrupted for another three years, unless stated provisions for termination are met, and also permits the establishment of new programs. The new law amends Chapter 61 of title 5, United States Code, by adding a new subchapter II. OPM will therefore issue regulations in a new Subpart D - Alternative Work Schedules of Part 610, Code of Federal Regulations. Consequently, we will be removing Part 620 - Alternative Work Schedules Experiments from the Code of Federal Regulations. Beginning with this bulletin, all guidance for AWS programs will be published in the 610 series.

2. All of the flexible and compressed work schedules permitted under the experimental AWS program, P.L. 95-390, and the temporary extension, P.L. 97-160, are permitted under the new legislation.

3. Flexitour and gliding schedules that were established under the authority of 5 U.S.C. 6101 are not subject to the provisions of P.L. 97-221. Those flexible schedule programs will continue to be subject to existing regulations and collective bargaining agreements.

90-Day Termination Provisions

4. The new law provides a 90-day period from date of enactment during which agencies may review existing AWS programs. Programs found to have caused adverse impact as defined in the Act--reduced productivity or level of service to the public or to increased cost of agency operations except for normal administrative costs--must be terminated. The determination of such adverse impact must be in writing. Termination reports should specify the type and number of schedule(s) terminated and the number of employees involved. Please provide a copy to OPM for information. Copies of the termination reports should be sent to: Mr. Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, P.O. Box 57, Compensation Group, Office of Personnel Management, Washington, D.C. 20044.

Inquiries: Compensation Group, Office of Pay and Benefits Policy, Benefits Analysis Division

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5. When an existing schedule is terminated during the 90-day period following enactment of this legislation, an agency or the exclusive representative may initiate, without regard to whether there are any reopening provisions in the agreement, collective bargaining to establish a different AWS for the unexpired portion of the negotiated agreement. This will provide an opportunity to correct the problems that developed under the terminated AWS. This initiation must be within 90 days of termination of the original schedule.

Labor Relations Aspects of AWS Programs

6. Except for the 90-day period from the date of enactment, the termination of any flexible or compressed work schedule under the Act is subject to collective bargaining between the agency and the exclusive representative. Agencies should establish review procedures and conduct periodic reviews of AWS programs. If the head of an agency finds that a particular flexible or compressed schedule would have or has had an adverse agency impact, the agency must promptly determine not to establish such a schedule or not to continue an existing schedule.

7. Following the initial 90-day period discussed in paragraph 3 above, termination of AWS will be handled as follows. If, upon review, the head of an agency determines the schedule involved has had an adverse impact, he/she must reopen the agreement to seek termination of the schedule. If agreement can not be reached, the impasse will be presented to the Federal Service Impasses Panel (Panel) which will have 60 days to act on the impasse. The contested schedule may not be terminated until the parties reach agreement or the Panel issues a final decision which supports the agency's determination of adverse impact.

8. If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination not to establish a flexible or compressed schedule, the impasse will go to the Panel. The Panel is required by the Act to promptly determine whether the evidence supports the agency determination that the schedule is likely to cause an adverse agency impact.

Credit Hours

9. The Act increases the maximum number of credit hours that a full-time employee may carry over from one pay period to a subsequent pay period from 10 to 24 hours. A part-time employee may not accumulate more than one-fourth of the hours in his or her biweekly basic work requirement. For example, a part-time employee who has a biweekly work requirement of 64 hours may carry over a maximum of 16 credit hours. The Act permits agencies to prescribe lower limits than the maximum allowed by law.

Accrual of Compensatory Time Unlimited

10. The 10-hour limit on the accrual of compensatory time for both wage grade and General Schedule employees, stipulated in the regulations implementing the experimental program (P.L. 95-390), has not been incorporated into the new legislation and will not be a part of the regulations. Therefore, accrual of compensatory time

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under this program is left to the discretion of the agency. This will provide agency managers additional flexibility in scheduling overtime.

Change in Definition of Part-Time Employment

11. Public Law 97-221 changes the definition of part-time career employment in 5 U.S.C. 3401 (2) from a weekly work requirement of 16 to 32 hours to a biweekly work requirement of 32 to 64 hours for employees on an AWS program. This means that a part-time career employee on an AWS program can be scheduled for more than 32 hours per week as long as total scheduled hours per biweekly period do not exceed 64. This change will allow part-time employees to work compressed and certain flexible schedules from which they were previously excluded. There is no change in the longstanding Comptroller General rulings (31 Comp. Gen. 581 and 32 Comp. Gen 491) that part-time employees must have at least one hour scheduled in each week of the biweekly pay period in order to earn leave.

Time Accounting

12. Because employees working flexible schedules will arrive and depart at varying times, it is important that a system exist within each agency for providing accountability for hours worked to ensure the credibility of the program from the perspective of the employees, management, and the public.

13. Agencies are advised to review each program to determine the most appropriate time accounting system. One procedure that is recommended for consideration by agencies is seriatim, or sequential, sign-in/sign-out sheets. Under seriatim timesheets, each employee records his or her time of arrival and, separately, departure in order, one following the other. This seriatim procedure is a simple method of assuring accountability for those employees that work under flexitime schedules.

14. The Act specifically provides that agencies may use time recording devices for flexible schedules established under this Act notwithstanding the prohibition on their use in the District of Columbia by 5 USC 6106. The prohibition continues with respect to other types of schedules including compressed schedules. Sections 17.2 and 17.3 of title 5 of the General Accounting Office Policies and Procedures Manual for Guidance of Federal Agencies establish requirements for agencies regarding time accounting for Federal civilian employees.

Agency Recordkeeping Requirements

15. Agencies are expected to maintain records pertaining to their AWS programs. In addition to reports of terminations, agencies should maintain records that will provide OPM, as needed, with up-to-date, accurate information regarding their AWS programs. These records should include data on the number of AWS programs, types of schedules in use, number of employees covered by each type of schedule, reasons for any terminated, and any evaluation studies conducted by the agency. This will be particularly important in three years, due to the "sunset" provision, when the program will come under Congressional oversight.

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Director

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