

Subject: ALTERNATIVE WORK SCHEDULES

Date: September 1, 2010

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Replaces Policy Dated: September 17, 2008

PURPOSE: To establish guidelines which ensure compliance with the Fair Labor Standards Act (FLSA) while still offering employees flexibility in scheduling their hours of work.

SCOPE: This policy applies to all non-exempt and exempt employees of Pinal County. It does not apply to Elected Officials, or employees of the Superior Court. .

INTRODUCTION

Alternative work schedules are valuable tools for managers looking for ways to attract and retain talented employees. They can offer employees a more family-friendly work environment by allowing more time off during the week to take care of pressing family issues, and they can allow a manager the opportunity to expand their service hours to meet customer needs without incurring overtime expenses.

A variety of alternative work schedules are available to management and employees. Some involve compressing the traditional workweek into fewer days (4/10 and 9/80 scheduling), and others involve rearranging the hours in a day that the employee works (staggered work hours).

However, care must be taken when considering the implementation of a flexible work schedule. The Fair Labor Standards Act (FLSA) establishes the guidelines under which an employee's work must be scheduled, accounted for and paid. Violating the Fair Labor Standards Act, whether intentionally or unintentionally, can cost the County substantial money in terms of fines, back pay and liquidated damages, and can also involve the imposition of jail terms on those managers who willingly violate the statutes.

There is no law that requires employers to provide breaks or lunch periods. However, regardless of the schedule worked, the County's policy is that a full-time employee should have a scheduled unpaid lunch break of at least a half hour every day.

NOTIFICATION

It is important where feasible, that employees exercising their flexible work schedule notify their fellow employees and the public they serve when they are on their flex days and who may be contacted in their absence. Please refer to appendix B to this policy for further instructions in how to leave an appropriate message.

DEFINITIONS

4/10 Schedule - A schedule where the employee works four ten hour days each week. The traditional fifth work day is off, and can be scheduled for any day of the week. The day may be either fixed or floating each week. However, it is much easier to ensure adequate work coverage if the day off is fixed.

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9/80 Schedule - A schedule where the employee works eight days of nine hours, one day of eight hours, and has the tenth day off (the "flex" day) in each two week pay period.

Staggered Work Hours - A regular schedule of eight hours a day, five days a week, but the hours worked are adjusted so that they are outside the peak times. Some employees begin at 7:00 and leave at 4:00 while others start at 8:30 and leave at 5:30. This schedule extends the office hours of operation from 7:00 to 5:30. Extended office hours may be used to expand public accessibility or to increase productivity by extending work hours into periods with fewer interruptions.

Calendar week - Sunday through Saturday.

Work week - a fixed and regularly recurring period of 168 hours - seven consecutive 24-hour periods. (29 C.F.R. § 778.105) It could be the same as the calendar week, but it doesn't have to be. The standard work week in Pinal County is the same as the calendar week.

Flex-day - The day in the work week the employee is off when working a flexible schedule.

Short day - The eight hour day of the 9/80 schedule.

Overtime - All time worked by a non-exempt employee in excess of forty hours in a work week. Overtime is reimbursed at the rate of time and one-half. With limited exceptions, in accordance with County policy, overtime is reimbursed in the form of compensatory time accrual.

Pay Period - The two week (14 Day) cycle comprised of two work weeks. The pay period does not have to coincide with two calendar weeks. On a 9/80 work schedule, the pay period begins in the middle of the day of the week which has been designated as that employee's flex-day.

Regular Pay Period - The two week cycle consisting of two calendar weeks, beginning at 12:01 a.m. Sunday and extending through midnight Saturday fourteen days later. The Regular Pay Period is used by Payroll to consolidate hours worked and generate pay checks.

FLSA-EXEMPT employees are those who are exempt from the provisions of the Fair Labor Standards Act that obligate employers to pay overtime for time worked in excess of 40 hours in a workweek. An employee who meets the duties tests for the executive, administrative, professional, or computer employment may be classified as exempt. See Pinal County Policy 4.10.

TECHNICAL ISSUES

The following statutory requirements and records must be maintained and followed under the Fair Labor Standards Act for every non-exempt employee.

- Every employer shall maintain and preserve payroll or other records, including time of day and day of week on which the employee's work week begins, hours worked each day and total hours worked each work week. (29 C.F.R. § 516.2)
- The work week must stand alone. FLSA does not allow averaging of hours over two or more weeks. (29 C.F.R. § 778.104)
- The beginning of the work week may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of the Act. (29 C.F.R. § 778.301)

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- When the beginning of the work week is changed, (1) assume first that the overlapping hours worked are to be counted as hours worked only in the “old” work week and not in the new; compute straight time and overtime due for each of the 2 work weeks on this basis and total the sums. (2) Assume now that the overlapping hours are to be counted as hours worked only in the new work week and not in the old, and complete the computation accordingly. Pay the employee an amount not less than the greater of the amounts computed by methods (1) and (2). (29 C.F.R. § 778.302)

IMPLEMENTING FLEXIBLE WORK SCHEDULES

Exempt Employees

There are no special requirements for implementing a flexible work schedule for employees who are exempt from the overtime provisions of the Fair Labor Standards Act. Since exempt employees are not compensated on the basis of hours worked, they may begin a flexible schedule (4/10 or 9/80) at the beginning of any pay period, and no special records need be kept.

Non-Exempt Employees

Schedules of four ten hour days (4/10 Schedule)

Implementation of a 4/10 schedule does not normally conflict with the Fair Labor Standards Act since it is not necessary to change the workweek. A 4/10 schedule may begin at the beginning of any regular pay period or on any day in the work week as long as all four days of work are completed between the hours of 12:01 Sunday and 12:00 midnight the following Saturday.

9/80 Work Schedule

The following factors should be taken into consideration when considering the implementation of a 9/80 work schedule:

Currently, the work week for calculating overtime is the same as the calendar week. It begins on Sunday at 12:01 a.m. and ends on Saturday at midnight, every week. **When a non-exempt employee goes on a 9/80 schedule, the work week is changed.** It begins every week in the middle of the day of the week which has been designated as that employee’s flex-day. This is the period that will be used to calculate whether overtime is worked. **The work week will no longer be the same as the calendar week.**

The work schedule must be started at the beginning of a regular pay period.

The best time to start the schedule is during a pay period that contains a holiday, especially if the holiday falls during the first week of the pay period. In this way overtime can be avoided during the transition pay period.

The first step in developing the schedule is to select the day of the pay period which will be that employee’s flex-day, or regular day off. Under most circumstances this will be either a Friday or a Monday.

Once the flex-day is established it cannot be changed because the change is intended to be permanent. **Non-exempt employees cannot “switch” or “trade” the regularly scheduled flex-day.**

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DOCUMENTATION

A record of the new schedule and the new work week (Flexible Schedule Work Agreement, Appendix A) must be completed and forwarded to Human Resources. If the schedule is changed, a new 9/80 work agreement needs to be completed. A sample of the form that must be used is attached and is available on the Human Resources Web Site. No employee is permitted to work a 9/80 work schedule until the Flexible Schedule Work Agreement is completed and forwarded to Human Resources.

9/80 Flexible Schedule Work Agreement

Employee Name: _____

Work week begins: (Day of the week and time of day). _____

Effective date of the new schedule (This must be the first day of the new pay period) _____

Flex-day: (Day of the week) _____

Short day: (8 hour day) _____

Lunch break: (time it starts and duration) _____

My work schedule is as follows:

First Week:

Second Week:

Monday	Start time _____	End time _____	Monday	Start time _____	End time _____
Tuesday	Start time _____	End time _____	Tuesday	Start time _____	End time _____
Wednesday	Start time _____	End time _____	Wednesday	Start time _____	End time _____
Thursday	Start time _____	End time _____	Thursday	Start time _____	End time _____
Friday	Start time _____	End time _____	Friday	Start time _____	End time _____
Saturday	Start time _____	End time _____	Saturday	Start time _____	End time _____
Sunday	Start time _____	End time _____	Sunday	Start time _____	End time _____

Employee Signature

Date

Supervisor Signature

Date

Leaving a Message

Employees who will be absent due to flex schedules, should activate the “Out of Office” notification “rule” in their County e-mail account and customize their phone message. E-mail rules can be used to create a customized ‘bounce back’ message to the sender that indicates that you are not available and to whom they should turn for assistance while you are gone. For information on how to create rules in your County e-mail account, go to Help, select the Index and type Rules in the search box.

Sample Phone Message and text for GroupWise rule

I will be out of the office on [Day of Week], [Month and date or range of dates] [on sabbatical, flex schedule or leave or attending a conference/training, etc. ← this is helpful but, if for privacy reasons you prefer not to indicate the reason, simply state the time you will be absent.] I’ll be available by cell phone at ###-###-#### in the event of an emergency. ← if appropriate to the nature of your position.]

In my absence, please direct inquiries to [First Name Last Name] at [emailaddress]@pinalcountyaz.gov or ###-###-####.

I intend to return to the office on [Month Date] and will follow up with your email at that time.

Thank you and have a great day,
[Your Name]

For regular flex days, you may wish to consider creating one Rule for the month and activating or deactivating it before you leave:

Thank you for your email [or call]. I work a flex schedule and will be off on the following dates:

[List the dates for the coming month]

While I am out, [First Name Last Name] can assist you. You may reach [First Name] at firstname.lastname@pinalcountyaz.gov or ###-###-#### for immediate assistance or I will follow up on your message when I return.

Thank you and have a great day,
[Your Name]