

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

**ATTENDANCE AND LEAVE MANUAL**

**POLICY BULLETIN 2008-05**

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TO: Manual Holders  
FROM: Blaine Ryan-Lynch, Director of Staffing Services  
SUBJECT: Alternative Work Schedule (AWS) Approval Procedure

Attached is Policy Bulletin 2008-05, Alternative Work Schedule (AWS) Approval Procedure.

Since 1978 it has been the policy of the state to encourage and promote the implementation of AWS programs where they are consistent with agency operational and programmatic needs. In order to facilitate agency development of AWS programs, the attached Approval Procedure provides agencies with step-by-step guidance on developing an AWS proposal, consultation with unions, and the review process for AWS proposals.

Questions concerning the Approval Procedure may be directed to the Attendance and Leave Unit at 518-457-2295 and to the GOER AWS designees, Richard Ahl, Assistant Director, and Lynda Scalzo, Employee Relations Associate, at 473-8375.

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**ALTERNATIVE WORK SCHEDULE APPROVAL PROCEDURE**

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**A. Alternative Work Schedule Approval Procedure**

This policy bulletin describes the Alternative Work Schedule Approval Procedure (Approval Procedure) that agencies must follow to develop and implement alternative work schedule proposals. A prior approval procedure was contained in Budget Policy and Reporting Manual Item G-068, dated November 8, 1985. The procedure described in G-068 required review of proposed alternative work schedules by the Division of the Budget (DOB), the Department of Civil Service Attendance and Leave Unit (A&L Unit), and the Governor's Office of Employee Relations (GOER). G-068 was rescinded by DOB in 1999. GOER and the A&L Unit continue to have responsibility for approval of alternative work schedules.

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## **B. Background and General Policy**

Since 1978 State agencies have been encouraged to consider whether use of alternative work schedules would facilitate meeting operational and programmatic needs.

It is the policy of the State to encourage and promote the implementation of alternative work schedules in those agencies of government where the use of an alternative work schedule will:

- Increase the availability of public services or otherwise enhance the productivity of state government operations;
- Increase the number of qualified persons available for recruitment into state government; and
- Improve employee morale, reduce absenteeism and/or tardiness, and (as appropriate) enhance the delivery of necessary care and services.

## **C. Types of Alternative Work Schedules**

The common types of alternative work schedules (AWS) are staggered hours, the compressed workweek, the compressed pay period, and use of part-time employees on a year-round basis. \* Participation in an AWS has no effect on an employee's overtime eligibility or ineligibility.

Staggered hours are a type of alternative work schedule that provides for assignment or selection of beginning and ending times at different fixed intervals that do not vary from day to day. Staggered hours do not permit employees to arrive and depart at different times on different days. Overlapping schedules of predetermined hours are established for the total work force. Employees work a fixed number of hours each day, always between the same starting and quitting hours. Starting times are usually staggered at 15 minute intervals; however, variations of 20, 30, and 45 minutes are also common. Staggered hours schedule options are either assigned by management or chosen by employees subject to management approval. Some flexibility can be built into this system by permitting employees to switch starting times during specified "open periods" or with the approval of the supervisor.

Compressed workweeks are a type of alternative work schedule that shortens the number of days in a workweek by lengthening the number of hours worked per day. For example, the normal five day eight-hour schedule may be compressed into four days of ten hours each or 3 days of 13 1/3 hours each. In addition to variations in the number of days worked, the specific days worked can vary. For a four-day schedule, workdays may be Monday through Thursday, Saturday through Tuesday, etc., depending on agency needs. Once the schedule has been determined, this should ordinarily remain fixed for the employee.

Compressed pay periods are a type of alternative work schedule in which employees work a full pay period in less than ten days. For example, an employee may compress the number of hours in a biweekly payroll period over nine days by lengthening some or all nine days in the pay period. In addition to variations in the number of days worked, the specific days worked can vary. Once the schedule has been determined, this should ordinarily remain fixed for the employee.

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Reference(s): Alternative work schedules are described in detail in Section 20.1, Basic Workweek, of the Attendance and Leave Manual.

*Note: Voluntary Reduction in Work Schedule (VRWS) agreements and individualized work schedules are not subject to this Approval Procedure. VRWS is not a type of alternative work schedule. Similarly, a temporary schedule change requested by a single employee and approved by a supervisor is an individualized work schedule and not an alternative work schedule.*

\* Please note that although part-time employment is considered a type of AWS, it is not subject to this Approval Procedure.

## **D. Steps to Developing an Alternative Work Schedule Proposal**

### ***1. Preliminary Discussion with A&L Unit and GOER***

Agencies should consult with GOER and the A&L Unit when developing an AWS. Such preliminary discussions are particularly helpful in avoiding creation of alternative work schedules that violate the Attendance Rules, the negotiated agreements, and/or the Fair Labor Standards Act (FLSA).

Discussion with the A&L Unit may address questions about types of alternative work schedules and methods of implementing those schedules consistent with the Attendance Rules, negotiated agreements, and Fair Labor Standards Act. Discussion with AWS designees at GOER may address parameters for the alternative work schedule, such as the organizational units in which the schedule will be made available, work schedule issues, and guidance concerning consultation with the duly designated representatives of the State employees who will be affected by the AWS.

References: In developing an AWS proposal, agencies should refer to the discussion of Alternative Work Schedules in Section 20.1, Basic Workweek, of the Attendance and Leave Manual, and to Section E, *Contents of the Proposed Alternative Work Schedule*, below.

### ***2. When Filing is Required***

#### ***a. Complete Written Proposal***

Agencies must file complete AWS written proposals under the following circumstances:

- When creating a new AWS;
- When an agency seeks to extend an existing approved AWS to a new organizational unit not specifically covered in the original approval (for example, when seeking to extend to a field unit an AWS approved for the administrative unit); and
- When changing or adding the type of AWS (for example, replacing a staggered hours schedule with a compressed workweek schedule).

#### ***b. Extension Request***

Agencies are not required to submit a complete written proposal when simply extending the time period of a current program beyond its scheduled termination date. In such cases, agencies are

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required to provide (1) a written statement to the A&L Unit advising them of the new period for the existing AWS; and (2) documentation confirming that union consultation has taken place.

**3. *Filing Procedure***

**a. *Submission of Draft Proposal***

To avoid AWS policies that violate pertinent rules, laws, or contractual provisions, agencies should submit draft AWS proposals for comments and suggestions prior to consultation with employee unions. Draft proposals are submitted to the A&L Unit for comments and suggestions. The A&L Unit will forward the draft proposal to the AWS designees at GOER for their comments and suggestions.

**b. *Union Consultation***

Agencies proceed to consult with the unions as described in Section F, *Union Consultation*, below, after receiving comments and suggestions from the A&L Unit and AWS designees at GOER.

**c. *Submission of Final Proposal***

Following union consultation, agencies must submit their final AWS proposal, along with confirmation of union consultation, for formal approval. The final proposal is submitted to the A&L Unit. Following their approval, the A&L Unit will forward the final proposal to the AWS designees at GOER for their review. Agencies will be notified of final approval by GOER.

Agencies must have final approval prior to implementing an AWS. Accordingly, agencies need to allow sufficient time for submission and review of both draft and final proposals.

If the proposed alternative work schedule involves creating new positions or reclassifying existing positions, the new AWS cannot be implemented until the position requests have been approved. See Section E(4)(b) *Cost Implications*, below.

**E. Contents of the Proposed Alternative Work Schedule**

The proposed alternative work schedule should be submitted in the following format and agencies must include all of the elements described below:

**1. *Type of Proposed Schedule***

Identify what AWS is proposed for adoption. The common forms of AWS are staggered hours, the compressed workweek, and the compressed pay period. Describe the proposed schedule including starting time, ending time, meal periods, number of workdays, etc. See Section C, *Types of Alternative Work Schedules*, above, for a description of types of alternative work schedules.

**2. *Organizational Units and Positions Affected***

Identify what work units and positions will participate, including the number of employees. If the AWS will apply to the entire agency, describe any conditions for participation.

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**3. Program Impact**

- a. Describe how the alternative work schedule will meet the goals described in Section B, *Background and General Policy*, above.
- b. Describe how it will meet the operational and programmatic needs of the agency.
- c. Describe how the alternative work schedule will be evaluated in relation to these goals and objectives and how it will be modified or discontinued if they are no longer being met. Describe how program improvements will be measured after the alternative work schedule is put into effect.
- d. Explain how adequate coverage will be maintained and how supervision will be maintained.

**4. Cost Implications**

- a. Clarify the impact the proposal will have on personal service expenditures, fringe benefits, overtime, or other cost related items. AWS proposals which result in increased overtime costs or other increased operational expenditures are not consistent with the long standing goal of the AWS program to generate additional efficiencies and are strongly discouraged.
- b. Identify the specific positions, if any, that the agency has requested be established, reclassified, or filled in order to implement the proposal. If the proposed change in work schedule involves creating new positions or reclassifying existing positions, the new work schedule cannot be implemented until the position requests have been approved in accordance with established procedures by the Department of Civil Service and the Division of the Budget. The requests for such positions should be filed simultaneously with the complete AWS proposal (See Section D(2), *When Filing is Required*, above).

**5. Duration of the Program**

- a. Generally, when an agency is implementing a new AWS, or extending an existing AWS to a new organizational unit, it is appropriate to pilot the AWS for a short period of time to evaluate its consistency with operational and programmatic goals. If the agency is seeking approval for an AWS pilot, indicate the period of the pilot (usually six months or one year), evaluation plans for the pilot program and what happens when the pilot is over.
- b. The AWS proposal must have a beginning date and an end date (for example, a one-to-two-year period might be appropriate). Prior to the end date, the agency would determine whether the program should be discontinued, modified, and/or continued for a new time period. If modified, see Section D(2), *When Filing Is Required*, above to determine if a new AWS proposal must be submitted.
- c. The proposal should state that management retains the right to end or suspend the AWS prior to the termination date of the program in an emergency or where it is determined by management to be necessary in order to carry out the mission, purposes, objectives, and policies of the State.

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**6. Administrative Implications**

Agencies must analyze and describe the administrative implications of the proposed AWS on agency policies.

- a. Describe the agency's policy regarding meal periods and rest periods and the impact of the proposal on such policies.
- b. Describe the agency's policy regarding tardiness penalties and the impact of the proposal on such policy.
- c. Describe the method the agency will use to maintain accurate time records under the proposed alternative work schedule. If the existing method is to continue, the agency should describe that method.
- d. Attach sample schedules and sample time cards for both overtime eligible and overtime ineligible employees. The time cards should also indicate the manner in which holidays will be treated. The agency must show how the schedule works and must account for how employees charge leave credits. This must be done for both overtime eligible and overtime ineligible employees.
- e. Additional information needed to develop compressed pay period schedules is set forth below.

Overtime eligible employees on compressed pay period schedules must account for 37.5 or 40 hours in each workweek. Hours in excess of 40 in a workweek must be compensated at the overtime rate. Such employees on compressed pay period schedules with a 37.5 hour basic workweek could, for example, be scheduled to work five days/37.5 hours plus 2.5 additional hours credited as overtime compensatory time in week 1 of a biweekly payroll period (five 7.5-hour days plus .5 hour of overtime compensatory time each day), and four days/37.5 hours in week 2 (four longer days totaling 35 hours in addition to charging, during those four days, the 2.5 hours of overtime compensatory time earned in week 1). Credits charged for days of absence in week 1 would correspond to the number of hours that fall within the employee's 37.5 hour basic workweek and the employee would not earn overtime compensatory time on that day. Credits charged for a day of absence in week 2 equal the number of hours the employee was scheduled to work on that day and any overtime compensatory time scheduled to be charged on that day.

Overtime ineligible employees on compressed pay periods must account for 75 or 80 hours each biweekly payroll period. They may exceed 40 hours in one of the two workweeks in a pay period as part of a compressed pay period schedule and be scheduled to work fewer than 37.5 or 40 hours in the alternate workweek so long as they are scheduled to work the required 75 or 80 hours in the biweekly payroll period. Credits charged for days of absence correspond to the number of hours the employee was scheduled to work on that day.

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**7. *Opt-out Procedures***

The AWS proposal should address whether employee participation in the proposed AWS will be optional or required and, once participation has begun, the circumstances under which an individual employee and/or a manager can terminate the employee's participation in the AWS.

- a. Clarify whether an employee's participation in the proposed AWS will be optional or required. If participation will be required, describe what provision, if any, is made for special circumstances.
- b. Once participation in the AWS has begun, describe the circumstances, if any, under which an employee and a manager may mutually agree to terminate or modify the employee's participation in the AWS at any time.
- c. Describe whether an employee may, at his/her option, terminate participation in the AWS and elect to return to a standard workweek. If so, describe the procedures that need to be followed by the employee, including appropriate notice to management. If return to the standard workweek at employee option is permissible, describe whether the employee can elect to do so at any time or only during "open periods."
- d. Describe the circumstances under which a manager, at his/her option, may elect to terminate an employee's participation in an AWS with appropriate notice.

**8. *Employee Relations Implications***

When submitting the final proposal, agencies must confirm that consultation has occurred with responsible union representatives of the affected employees as described in Section F, *Union Consultation*, below. Include the name of the union(s), name(s) of union official(s) and union office of the union officials with whom consultation has been held and the outcome of that consultation, including issues raised. Any signed letters from the union(s) indicating their approval of the alternative work schedule must be attached to the written proposal.

Agencies are reminded to discuss employee relations implications with the AWS designees at GOER. Work Schedule revisions must be consistent with current contractual provisions regarding workday/workweek, where applicable and relevant.

**F. *Union Consultation***

Consultation with duly designated representatives of the state employees who will be affected by the work schedule must take place after the draft proposal has been reviewed by the A&L Unit and GOER and before the final proposal is submitted. See Section D(3), *Filing Procedure*, above. It is advisable to involve representatives of employee organizations at both the local and agency level in discussions leading to the development of alternative work schedules.

Based on GOER's analysis and/or relevant contract arbitration awards, the following should be considered as the proposed alternative work schedules are discussed with the employee organizations:

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- Consultation should occur before management reaches their final decision.
- Consultation should be held with responsible agents of the employee organization, either local presidents/division leaders and/or field representatives.
- Consultation should include analysis and consideration of objections the employee organization may have to the proposed change and of alternatives they may propose.
- Records of the consultation should be retained, including the dates, names and union offices of the union officials with whom consultation has been held. Any signed letters of agreement obtained from the unions should also be retained.

Agencies are reminded that consultation with the unions must take place prior to filing an AWS proposal with the A&L Unit for final approval.

**G. Monitoring Responsibilities**

The A&L Unit is responsible for monitoring alternative work schedules. Therefore, the A&L Unit is authorized to make such inspections and require such information from agencies as may be necessary to fulfill these monitoring responsibilities.

**H. Revocation of Approval**

In the event it is determined that the policy and goals set forth in Section B, *Background and General Policy*, above, are not being achieved by a particular alternative work schedule arrangement, the A&L Unit and GOER may require that such schedules be discontinued.