

## **SAN FRANCISCO PREDICTABLE SCHEDULING LAW**

### **Overview**

San Francisco has a law governing scheduling and workplace management practices at certain chain stores in San Francisco with at least 40 locations throughout the world. Covered establishments are required to provide new employees with a good faith written estimate of the employee's expected minimum number of scheduled shifts per month and the days and hours of those shifts. They are also required to post shift schedules at the workplace at least two weeks in advance, pay premiums for last-minute shift changes, offer additional hours to part-time employees (i.e., those that work no more than 34 hours per week) before hiring new employees, and generally treat part-time employees the same as full-time employees with respect to (1) starting hourly wages, (2) access to paid and unpaid time off, and (3) eligibility for promotions.

The law gives San Francisco's Office of Labor Standards Enforcement (OLSE) the authority to impose monetary penalties, among other things, on employers who violate its provisions. It also permits the City Attorney to bring a lawsuit in civil court.

Finally, the legislation prohibits retaliation against employees for seeking to enforce their rights.

### **Coverage**

The law applies to employees at "Formula Retail Establishments" with at least 20 employees in San Francisco. It also applies to employees of contractors who perform janitorial or security services at Formula Retail Establishments in San Francisco. Under the law, a Formula Retail Establishment is a business with at least 40 locations worldwide that have at least two of the following features: a standardized (1) array of merchandise, (2) facade, (3) décor/color scheme, (4) uniform apparel, (5) signage, and (6) trademark/servicemark. It can include retail stores, franchises, and chain restaurants. **As applied to Sodexo, this means that the law only governs San Francisco locations where Sodexo provides: (1) janitorial or security services at branded concepts or (2) other services at branded concepts (such as Subway, Starbucks, and Jamba Juice).**

### **Good Faith Estimate of Work Schedules**

You must provide new employees before they begin their job a written good faith estimate of the employee's work schedule, the minimum number of shifts the employee can expect to work per month, and the days and hours of those shifts. Additionally, if the employee requests modifications of the proposed work schedule, you must consider the request and respond in writing.

## **Advance Notice of Work Schedule**

You must provide employees with a written work schedule (including all regular and on-call shifts) at least two weeks in advance. This work schedule must be posted at least every 14 days in a conspicuous place at the workplace that is readily accessible to employees. Additionally, you must provide new employees on their first day of employment with an initial work schedule that runs through the date of the current 14-day work schedule.

## **Compensation for Work Schedule Changes**

If changes are made to an employee's work schedule with less than seven days' notice, you must pay the employee the premiums identified in the table below. These premiums are in addition to the employee's regular pay, must be paid at the same time as regular wages, and must be noted separately on wage statements.

<b>Notice of Work Schedule Changes</b>	<b>Predictability Pay</b>
Changes made with at least 24-hours' notice but less than seven days' notice.	One hour of pay in addition to the hours worked.
Changes with less than 24 hours' notice.	For shifts of four hours or less: Two hours of pay in addition to the hours worked.  For shifts of more than four hours: Four hours of pay in addition to the hours worked.
On-call shifts cancelled with less than 24 hours' notice.	For shifts of four hours or less: Two hours of pay in addition to the hours worked.  For shifts of more than four hours: Four hours of pay in addition to the hours worked.

## **Exceptions to Compensation for Work Schedule Changes**

You are not required to pay the additional compensation stated above under the following circumstances:

- Operations cannot begin or continue due to: threats to employees or employer property, the failure of a public utility, an act of God or other cause not within the employer's control (such as an earthquake, fire, or severe weather conditions that pose a threat to employee safety).
- Another employee previously scheduled to work that shift is unable to work and did not provide at least seven days' notice.

- Another employee failed to report to work or was sent home.
- The employer requires the employee to work overtime.
- Two employees voluntarily traded shifts with one another, subject to any existing policy regarding required conditions for employees to exchange shifts.

## **Equal Access for Part-Time Employees**

You must provide equal treatment to part-time employees, as compared to full-time employees at their same level, with respect to (1) starting hourly wage, (2) access to paid and unpaid time off, and (3) eligibility for promotions. Hourly wage differentials are permissible if they are based on reasons other than part-time status, such as seniority or merit systems. Furthermore, time off allotments may be prorated based on hours worked.

## **Hiring New Employees**

Before hiring new employees from an external applicant pool or subcontractor, including temporary services or staffing agencies, you must offer additional hours of work to existing part-time employees (i.e., those that work no more than 34 hours per week) at your location if: (1) they are qualified and (2) the work is the same or similar to the work the employee has performed. This may occur by either (1) providing the part-time employee with a written offer for the additional hours or (2) by posting the offer in a conspicuous location in the workplace where notices to employees are customarily posted. In either scenario, you must only offer part-time employees enough additional hours to reach 35 hours of work per week.

Notably, part-time employees who accept the offer for additional hours must do so in writing. Furthermore, if no part-time employee accepts the offer within 72 hours of receiving the offer, you may hire new employees to work the additional hours.

## **Notice of Rights**

The OLSE has published [this poster](#) giving notice of the rights afforded by this law. You must display the poster in a conspicuous and accessible place at the unit in English, Spanish, Chinese, Tagalog, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

## **Recordkeeping**

You must retain all records documenting compliance with this law for three years. If you fail to maintain adequate records, there is a rebuttable presumption that Sodexo violated the law for the periods and for each employee for whom records were not retained.

## **Retaliation Prohibited**

You may not take any adverse action against an employee that penalizes the employee for, or is reasonably likely to deter the employee from, exercising or attempting to exercise any right protected by the law. Taking an adverse action includes threatening, intimidating, disciplining, discharging, demoting, suspending, or harassing an employee, reducing the hours or pay of an employee, informing another employer that an employee has engaged in activities protected by the law, and discriminating against the employee. An employee need not explicitly refer to the law or the rights enumerated in the law to be protected from retaliation.

## **Enforcement and Remedies**

An employee can file a complaint with the OLSE, which will then investigate the claim. If the office finds violations, it may assess remedies including compensatory damages, fines, and other relief to remedy the harm. Additionally, the City Attorney may bring a lawsuit in civil court for such remedies.