

DEPARTMENT OF HUMAN RESOURCES

4.1 POLICY ON ALTERNATIVE WORK SCHEDULES

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to provide more flexibility for establishing employee work hours which are in the best interest of the Judiciary. Employees may request but are not guaranteed an alternative work schedule.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges and commissioners.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts, the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Alternative Work Schedule (AWS)** – A work schedule that allows an employee to work a compressed work week, or flexible work hours as defined by this policy.
- (3) **Compressed Work Week** – A work week of fewer than five days in a seven-day period (Wednesday through the following Tuesday) or fewer than 10 days in a 14-day pay period. The following four options for a compressed work week may be available at the administrative head's discretion. The employee's days off are according to a fixed schedule:
 - (A) An employee may work four 10-hour days in a work week to equal 40 hours.

- (B) An employee may work four nine-hour days and one four-hour day in a work week to equal 40 hours.
- (C) An employee may work four 10-hour days in a work week followed by a work week of five eight-hour days for a total of 80 hours per pay period.
- (D) An exempt¹ employee may work four nine-hour days and one eight-hour day in a work week to equal 44 hours followed by a work week of four nine-hour days equal to 36 hours for a total of 80 hours per pay period.

- (4) **Core Hours** – The scheduled hours of the AWS work day during which all employees must be present at work. Core hours established under this policy for employees working the day shift are 9:00 a.m. to 3:30 p.m.
- (5) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (6) **Regular Work Schedule** – Five eight-hour days (40 hours) in a work week.
- (7) **Work Week** – A work week is Wednesday through the following Tuesday.
- (8) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Maryland Judiciary strives to provide its employees work/life balance opportunities that enhance the work environment, resulting in operational effectiveness.

An AWS is a work/life balance initiative that is a privilege and not a right. The administrative head may, at his or her discretion and at any time and for any reason, choose to implement or to discontinue an AWS agreement for an employee or all employees under his or her authority. The administrative head should be cognizant that courthouses and other facilities of the Judicial Branch shall be open for operations no later than 8:00 AM and shall close no earlier than 5:00 PM every day the courts are open.

(d) Approving Authority: The administrative head will have the final authority for approval, disapproval, modification, and/or termination of an employee’s AWS agreement.

¹ Federal Law requires that employees in positions subject to the overtime provisions of the Fair Labor Standards Act (otherwise known as nonexempt employees under the FLSA) be compensated at time and one-half (in cash or leave) **for all hours worked in excess of 40 in a given work week**. Employees in such nonexempt positions are, therefore, ineligible to participate in an AWS that allows over 40 hours of work in a work week.

(e) Conditions of AWS

- (1) The respective administrative head has the discretion to determine whether to allow AWS in his or her court, unit, department, or office, and to determine which work schedule options under this plan will be made available to employees based on an assessment of operational needs.
- (2) Staff coverage sufficient to meet the operating requirements of the departments shall be maintained at all times.
- (3) All employees on an AWS must be present at work during the core hours on a full work day.
- (4) No employee may schedule his or her work time to begin before 7:00 a.m. or end after 6:00 p.m. unless required and/or authorized by the administrative head, due to operational needs.
- (5) Management must be able to effectively supervise an employee during all hours of an employee's AWS, as determined by the administrative head.
- (6) Employee participation in the AWS Program is strictly voluntary.
- (7) An AWS agreement is for no more than one year. The administrative head will review the agreement at least annually to determine whether the employee may continue on an AWS.
- (8) An employee cannot simultaneously have an AWS and a Telework agreement. If an employee has a telework agreement, then he or she is not allowed to have an AWS.

(f) Request for AWS

- (1) **Employee Responsibility.** An employee may request an AWS by completing the AWS form and submitting it to his or her immediate supervisor for review. The administrative head has the discretion to approve or deny a request for an AWS.
- (2) **Management Responsibility**
 - (A) Management must ensure sufficient office coverage prior to approving individual AWS plans for employees. In order to maintain appropriate coverage during peak periods and vacations, management may request employees to revert to a regular work schedule.
 - (B) If an AWS option available to employees is not meeting operational needs, then management has the discretion to make other options under this policy available under a short term or long term basis. Management must provide employees with two weeks written notice prior to the change whenever possible.
 - (C) At any time, any employee's AWS may be rescinded at the discretion of the administrative head. A two-week written notice will be provided to the affected employee, except in situations that require immediate action. Any employee who abuses the privileges of this program or exhibits deficiencies in performance, conduct, or attendance will be returned to a regular schedule.

- (3) The administrative head shall forward a copy of an employee’s approved AWS form to the JHRD who shall keep a record of employees who are working an AWS.

(g) Leave Benefits

Annual and sick leave benefits will accrue at the same rate as for an employee on a regular work schedule. Leave benefits (sick, compensatory, annual, and personal) shall be expended on an hour-for-hour basis equal to the number of hours used during a scheduled work period. For example, if an employee has selected a compressed work week and is scheduled to work 10 hours on a day he or she requests to take leave for the entire day, then 10 hours will be charged against accumulated leave for that day.

Paid time off for holidays will be eight hours, the equivalent number of hours as provided for by a regular work schedule. For any given holiday, the excess of an employee’s scheduled work day over eight hours must be charged to accrued personal, annual or compensatory leave. For example, an employee working a four-day, 10-hour per day schedule would record eight hours holiday leave and two hours of other accumulated leave. If a holiday falls on a day which the employee is not scheduled to work as a result of an AWS, then the employee will be granted eight hours of compensatory leave at straight time.

- (h) Release Procedures:** In the event there is a need for employees to be released early, to delay opening, or to close for the full day, the established release procedures will be followed.
- (i) Policy Not Subject to Grievance Action:** The approval, denial, modification, or termination of an AWS Agreement is not subject to a grievance action.
- (j) Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.
- (k) Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.
- (l) Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.