**Counsel Initial Proposal**

**March 24, 2023 2:00 p.m.**

**Key: Changes from 2018 union contract are shown with track changes.**

**ARTICLE 5 – WORK SCHEDULES**

**Section 1 - Schedules Available**

1. The basic work requirement is the number of hours in any work schedule, excluding overtime hours, an employee is required to work or otherwise account for by leave, credit hours, holiday hours, excused absence (such as administrative time), compensatory time off, or leave without pay (LWOP). The work requirement for part-time employees is the number of hours the employee must be present in a biweekly pay period.
2. Subject to management approval under the standards set forth in Sections 6(A) and 6(B), all bargaining unit employees may work any of the following work schedules: (1) flexitour with credit hours; (2) a gliding schedule with credit hours; or (3) a 5-4/9 compressed work schedule (CWS).
3. For any work schedule under this Agreement, management has the discretion to approve or deny a requested start time based on the standards set forth in Section 6(A) of this Article. An employee may request set start times that vary based on the days of the week. For example, an employee on a flexitour with credit hours work schedule may request to start work at 9:00 a.m. on Mondays, Wednesdays, and Fridays, and at 7:00 a.m. on Tuesdays and Thursdays.

**Section 2- Flexitour with Credit Hours**

1. Flexitour with credit hours is a work schedule that requires employees to account for ten (10) workdays of eight (8) contiguous hours (excluding lunch) that contain the core hours during each biweekly pay period. Employees on flexitour are also eligible to earn and use credit hours. Employees working this schedule are allowed to request starting and stopping times within the flexible band. Once approved, the hours are fixed unless changed in accordance with the terms of this Article.
2. “Credit hours” are any hours within the flexible band which are in excess of an employee’s basic work requirement and which the employee works, with supervisory approval, so as to vary the length of the workweek or workday. For example, an employee who has worked eight (8) credit hours in a week may take one (1) day off later that week subject to management approval.
3. Daily schedule changes on an ad hoc basis may be granted by management, subject to workload requirements.
4. The flexible band and core hours for the Office are as follows:

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| --- | --- |
| Daily core hours: | 10:00 a.m. to 3:00 p.m. |
| Flexible band during which the tour of duty may begin and end: | 6:30 a.m. to 6:30 p.m. |
| Flexible band during which credit hours may be earned: | 5:00 a.m. to 11:00 p.m. |

Core hours are the hours during the workday in which all employees must be working or on approved absence.

1. With the work unit supervisor’s approval, an employee may earn up to four (4) credit hours on each workday and up to twelve (12) credit hours on each non-workday. For this purpose, non-workday does not include holidays. Office employees may not work credit hours during any hours that are part of their regular work schedule on a holiday.
2. Credit hours may be worked non-contiguously to the employee’s regular work schedule and may be worked at an alternate worksite. For example, an employee may work at the regular work site between 7:30 a.m. and 4:00 p.m. and return home and work two (2) credit hours between 8:00 p.m. and 10:00 p.m.
3. Credit hours worked must ordinarily be requested and approved in advance. Supervisors will be reasonable in approving the earning of credit hours. Supervisors may give a blanket approval to earn credit hours up to a designated limit per day, week or pay period. Approval to earn credit hours may be granted orally. Once approved, the hours earned will be reported on an appropriate organizational form or transmittal (e.g. SF-71, e-mail, or fax) and recorded on SETR.
4. Pursuant to statute, the number of credit hours that a full-time employee may carry from one pay period to the next pay period is twenty-four (24) hours. Part-time employees may earn credit hours on the same basis as full-time employees, but may carry over only 1/4 of the regularly scheduled hours in each biweekly pay period.
5. Credit hours do not have to be used within a certain period and may be carried over into the next leave year.
6. Credit hours may be earned and taken in fifteen (15) minute increments.
7. The use of earned credit hours will be approved using the same standard used in Article 9 for approval of annual leave.

1. Credit hours may be taken within the same pay period as the credit hours are earned. However, the credit hours must be earned before the credit hours can be taken. For example, an employee with no prior credit hour balance may not take two (2) credit hours on Monday and then attempt to earn the credit hours taken on Tuesday.

1. A credit hour may not be used on the same day that it is earned. For example, an employee with no prior credit hour balance may not earn a credit hour in the morning and use that same credit hour later in the same day. Subject to prior approval from the Office, employees who have a credit hour balance may use credit hours on the same day that other credit hours are earned.
2. Credit hours may be earned on the same day that an employee takes approved leave. Additionally, credit hours may be used in place of or in combination with other types of leave if the use of credit hours is approved in advance by the Office.

**Section 3 - Gliding Schedule with Credit Hours**

1. This is a type of flexible work schedule that requires employees to account for ten (10) workdays of eight (8) contiguous hours (excluding lunch) that contain the core hours during each biweekly pay period.
2. Employees on this work schedule select a starting and stopping time each day within the flexible band established for a flexitour with credit hours work schedule. These employees may also “glide” their established starting and stopping daily times within the established flexible band for a flexitour with credit hours schedule. But, the “glide” will only be permitted for up to 30 minutes prior to or after the employee’s established start time. For example, if an employee elects regular 8:00 a.m. start time on Mondays, the employee may begin work as early as 7:30 a.m. (thirty (30) minutes before the start of the tour of duty) or as late as 8:30 a.m. (thirty (30) minutes after the start of the tour of duty) on that workday without prior management approval.
3. Employees on a gliding work schedule are eligible to earn and use credit hours under the rules provided for Section 2 of this Article.
4. Employees on a gliding work schedule must notify their supervisor of their start time either prior to the start of their tour of duty or within fifteen (15) minutes after they have commenced working. Such notice may be communicated electronically (via email, telephone or Outlook calendar) or in person. If the communication is not originally made by e-mail, it will be confirmed by e-mail. Employees may also provide e-mail or other written notice in advance of their start time for the entire week.

**Section 4 – 5-4/9 Compressed Work Schedule**

1. A 5-4/9 CWS is a fixed compressed schedule that requires employees to account for nine (9) workdays in each biweekly pay period. Eight (8) of those workdays are nine (9) hours long (excluding lunch) and one (1) workday is eight (8) hours long (excluding lunch).
2. Employees electing a 5-4/9 fixed CWS may select a starting time no earlier than 6:00 a.m. The work schedule that results from such an election must include the daily core hours of 10:00 a.m. to 3:00 p.m. for each of the nine (9) workdays explained in (A) above. Core hours are the hours during the workday in which all employees must be working or on approved absence. An employee on a 5-4/9 fixed CWS may not have a schedule which permits the employee to begin the workday earlier than 6:00 a.m. or to complete the workday later than 6:00 p.m.

1. A 5-4/9 fixed compressed schedule may have different starting and ending times on different days.
2. Employees electing a 5-4/9 CWS may not earn credit hours.
3. Employees taking annual leave or sick leave on a regularly scheduled nine (9) hour day must be charged nine (9) hours leave for that day. However, if the employee has not yet worked their eight (8) hour day he or she may request to substitute that leave day for their eight (8) hour day. Such requests will generally be granted. If the employee’s request is granted, the employee will only be charged eight (8) hours of leave for that day and will work nine (9) hours on the scheduled eight (8) hour day.
4. Employees may only request to substitute one “regular day off” for another day off within the same pay period.
5. If an employee’s “off” day falls on an official holiday, the employee gets the preceding work day off.
6. Daily schedule changes on an ad hoc basis may occasionally be granted by management, subject to workload requirements and provided that the work schedule does not begin before 6:00 a.m. or end later than 6:00 p.m.

**Section 5 - General Rules for all Work Schedules**

1. Standard for Approval of Individual’s Work Schedule

1. An employee’s work schedule request (including a request for specific starting and stopping times) will be approved unless the request would interfere with the work requirements, such as office coverage or participation in collaborative projects. For example, participation may be denied or limited based on a need for direct supervision of an employee due to less than satisfactory performance or identified time and attendance issues.
2. If any employee’s requested schedule must be disapproved, the reasons for disapproval will be discussed first with the affected employees, and the employees will be provided the opportunity to submit a new schedule before the finalization of work schedules for that work unit.
3. Standard for Discontinuing an Individual’s Work Schedule
   1. Once an employee has worked on a particular work schedule (including a specific start and stop time), management has the right to discontinue that employee’s participation on that particular work schedule, subject to the provisions in this Subsection.
   2. The Office may move an employee off of a particularwork schedule or adjust start and stop times if the employee’s participation on that schedule has caused a need for realignment of work, diminished level of services, insufficient office coverage, or increased costs. However, once the reason for the modification of the employee’s work schedule and/or start and stop times has abated, the employee, upon request, will be able to resume his or her previous schedule and/or start and stop times consistent with this Article. This standard is not a Counsel-wide standard, but rather is applied based on a particular work unit or POD.
   3. Before the Office takes any final action under this Section to move an individual employee off a particular work schedule or adjust that employee’s start and stop times, the employee and the appropriate local Counsel steward and/or National Steward will be provided with the specific written reasons for the discontinuance and will be given an opportunity to propose an alternative plan to the Office.
   4. If the Office nevertheless moves an employee off a work schedule or adjusts a start or stop time, the employee and /or NTEU may grieve this action.
   5. Consistent and in conformity with 5 USC § 6131, if the Office determines to discontinue a particular flexible or compressed work schedule established under this Article after determining that the work schedule has had an adverse agency impact, it will provide advance notice to NTEU National, and bargain to the extent required by law.
4. General Provisions
5. Approved work schedules shall be effective the next pay period after the date of approval, if not sooner.
6. Except for ad hoc changes to any work schedule, employees may request changes in their work schedules no more frequently than once during each calendar quarter, although nothing in this Agreement will preclude the work unit supervisor from permitting a temporary variance of the selected option if necessitated by emergency conditions. This emergency change would not count as the quarterly request to change.
7. Voluntary changes to work schedules will not be permitted if such changes would require other employees in the work unit to change their schedules involuntarily.
8. An employee who voluntarily changes work units will be required to choose a work schedule from among those available in the new work unit. Whenever possible, employees involuntarily reassigned between work units will be permitted to retain the work schedule they had before the reassignment.
9. Instructors and trainees will adhere to the established training schedule while involved in training classes and instructor preparation.
10. Employees in a travel status will adhere to the work schedules observed by employees in the office visited.
11. Employees appearing before any Court will adjust their work schedule to meet the schedule of the Court. Employees on a trial team will also adjust their work schedule to meet the reasonable needs of the trial team.

**Section 6 - Educational Courses**

Upon an employee's request, the Office will, subject to workload requirements, establish a special tour of duty or work schedule to enable the employee to take educational courses in accordance with applicable rules and regulations.

**Section 7 - Religious Observances**

1. Upon advance request, the Office shall make every reasonable effort to grant, consistent with workload and staffing needs, an employee’s request for annual leave for a workday which occurs on a religious holiday.
2. An employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in religious compensatory overtime work for time lost, without charge to leave, or may elect to take annual leave for meeting those religious requirements.
3. To the extent such modifications in work schedules do not interfere with the efficient accomplishment of the Office's mission, the Office shall in each instance grant an employee’s request to use religious compensatory time off on a specified date and time for a specified religious observance. At the time the request is made, the employee must provide the date, name and/or description of the religious observance that is the basis of the employee’s request to be absent from work in order to meet the employee’s personal religious requirements.

The Office will afford the employee the opportunity to earn religious compensatory time off within the thirteen (13) pay periods before or after the specified religious observance. Religious compensatory time is appropriate when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.

1. Reasonable opportunities to earn religious compensatory time off include the Office's effort to first assign work that is regularly assigned to the affected employee; if this work is not available, then to assign work which may include work not normally assigned, if the employee is qualified to perform such work. The following are types of situations envisioned above:
   1. The work is such that productive work is not available on what are normally non-duty times; or
   2. Significant security, utility, rental or other costs would be incurred if work at normal non-duty times were permitted.

The Office will not be prevented from directing an employee to work overtime even though the employee still has religious compensatory time outstanding.

1. Employees must notify their supervisors of a desire to take religious compensatory time off for a religious observance. Notification should take place fifteen (15) days in advance, whenever possible.
2. Religious compensatory time off may be earned and taken in fifteen (15) minute increments.
3. Employees must request and receive approval for the earning of religious compensatory time in advance. All earning of religious compensatory time must be done in accordance with 5 CFR § 550.1004 and 1005.
4. Religious compensatory time shall be accounted for separately from other leave categories.
   1. A grant of advanced religious compensatory time will be repaid by the appropriate amount of compensatory overtime work, in increments of at least fifteen (15) minutes, within thirteen (13) pay periods after the pay period in which the employee used the religious compensatory time off. If the advanced religious compensatory time is not repaid within thirteen (13) pay periods, the time outstanding will be charged in the following order, as applicable: annual leave, credit hours, compensatory time off in lieu of regular overtime, and compensatory time off for travel. If there is a remaining negative balance, the outstanding time will be converted to LWOP, resulting in a debt (and subject to debt collection procedures).
   2. Advanced religious compensatory time will be considered indebtedness to the Office if the employee separates without repaying the advanced time and will be withheld from any final payments to the separating employee.
5. Employees who take advanced religious compensatory time off for religious observances may subsequently thereafter elect to charge that time to annual leave. If an employee elects to charge that time to annual leave their request will be granted. However, employees who take annual leave or leave without pay for religious observances may not subsequently charge that to religious compensatory time off.