

Emeryville Fair Workweek Standards

Frequently Asked Questions

Q. What are the Emeryville Fair Workweek Standards?

A. The Fair Workweek Standards regulate the way that retail businesses schedule their employees. The standards include these requirements:

- Good faith estimate of hours and work schedule
- Two Weeks' Advance notice of schedule
- Right to rest between work shifts
- Right to request work schedule preference and changes
- Compensation for schedule changes (Predictability Pay)
- Access to hours for existing employees

Q. Do the Fair Work Week Standards requirements apply to all of my employees?

A. The regulations apply to all hourly employees working in the city of Emeryville.

Scheduling Requirements

Q. What is the Initial Estimate of Minimum Hours?

A. We are now required to give all new employees a written good faith estimate of the schedule they will be working before they begin employment. This estimate should include the expected minimum number of scheduled shifts per month, the days and hours of those shifts, the average number of hours per week for each quarter of the year, and if the employee will be required to work on-call shifts.

Q. When should I provide a new hire with the Initial Estimate of Minimum Hours?

A. You must provide this estimate to all new employees prior to their first day of employment using the new **Initial Estimate of Minimum Hours Form**. The form will be located within Talent EssilorLuxottica Recruiting as a required offer letter template to be completed and sent via email (Select "email as text") when extending the offer. Additional instructions can be found in the offer letter job aid in Talent EssilorLuxottica.

Offer Letter	
Country	<input type="text" value="United States"/>
Language:	<input type="text" value="English US (English US)"/>
Template:	<input type="text" value="Initial Estimate of Minimum Hours - Required for San Francisco, Seattle, Emeryville"/>
Subject:	<input type="text" value="Initial Estimate of Minimum Hours"/>

Initial Estimate of Minimum Hours

Hiring Manager Must Provide to New Employee Prior to Date of Hire

Employee Name: [CANDIDATE_FIRST_NAME] [CANDIDATE_LAST_NAME]
 Date: [TODAY]
 Brand: [JOB_REQUESTION_CUSTOM21]
 Store #: [JOB_REQUESTION_CUSTOM11]
 Expected DOH: [JOB_APPLICATION_CUSTOM1]
 Employment Status (FT/PT/CPT/IS): [JOB_REQUESTION_CUSTOM21]

Shift Days (Mark with an X) __SU __M __T __W __TH __F __SA
 Minimum Number of shifts per month: ADD IN NUMBER OF SCHEDULED SHIFTS
 Average number of hours per week over the course of a year:
 Q1(Jan-Mar): _____ Q2(Apr-Jun): _____ Q3(Jul-Sept): _____ Q 4(Oct-Dec): _____
 Expected Shift Hours (ex 4 hours): ADD IN SHIFT HOURS
 Expectation of on Call Shifts: __Yes __No

(Please Note: This is our current best estimate of the minimum number of shifts, days and hours that you will be expected to work each month. Your actual number of shifts, days or hours per month may vary due to fluctuations in demand.)

Documents: 0 attached

Back Cancel Print Online Offer Verbal Offer Email as text Email as PDF attachment

Q. Do I have to schedule my new employee the exact shifts and hours that I provided on the Initial Estimate of Minimum Hours Form?

A. No. This is meant to be our best estimate of expected hours and you are not obligated to provide those specific shifts/hours.

Q. Do I need to keep a copy of the Initial Estimate of Minimum Hours Form I provide to a new employee?

A. No. As long as you complete and send this form to the employee via Talent EssilorLuxottica, you do not need to keep a copy of the form. It will be tracked within the Talent EssilorLuxottica system.

Q. Is the Initial Estimate of Minimum Hours the only document I need to provide to a new employee?

A. No. You must also provide each new employee with an initial work schedule that runs through the date in which the next biweekly schedule is to be posted.

Q: How far in advance do I need to post a work schedule for existing employees?

A: 14 days prior to the first day of the work schedule.

Q: What is the minimum amount of time between shifts I can schedule an employee?

A: The Standards state an employee should have an 11 hour break between scheduled shifts. The employee does have the right to decline a shift it does not allow for an 11 hour break. If the employee agrees to work the hours, you will be required to pay the employee Predictability Pay (see below).

Q. Do employees have the right to decline employer requested schedule changes?

A. Yes, an employee may decline to work any hours not included in the employee's posted work schedule.

Q. Do employees have the right to request flexible schedules?

A. Yes. Employees can request schedule preferences or changes at the time of hire and during employment without to balance other life and work commitments. If an employee requests a schedule preference or change, you should meet with the employee to discuss the request and

provide a written response. **You cannot retaliate against any employee for making such a request.**

Predictability Pay for Schedule Changes

Q: What is Predictability Pay and how is it paid?

A: Predictability Pay is additional compensation for schedule changes that occur after a schedule has been posted. Predictability Pay should be paid using the “**Predictability Pay**” pay code in your timekeeping system.

Q. When would I owe an employee Predictability Pay?

A. Unless an exception applies (see below), employers must provide additional compensation when they:

- Initiate schedule changes **after the schedule has been posted**; or
- Do not schedule at least 11 hours of rest between shifts

Action Taken after schedule was posted	Hours of Predictability Pay (at the employee's base hourly rate)
Any change in hours with more than 24 hours' notice	1 Hour
Reduction/cancellation of hours with less than 24 hours' notice	4 hours, or the number of hours in the employee's scheduled shift, whichever is less
Non-reduction change in hours with less than 24 hours' notice	1 Hour
< 11 hours of rest between shifts	1 ½ (1.5) times the number of hours worked that are less than 11 hours following the end of a previous shift

Examples:

- 1) An employee is scheduled to work an 8 hour shift. Less than 24 hours before the shift begins, the manager cancels the shift. The manager should input 4 hours of Predictability Pay for the employee on that day in the timekeeping system.
- 2) An employee is scheduled to work a 4 hour shift from 12:00 p.m. to 4:00 p.m. Less than 24 hours before the shift begins, the manager informs the employee that the shift will be extended to 12:00 p.m. to 5:00 p.m. The manager should input 1 hour of Predictability Pay for the employee on that day in the timekeeping system.
- 3) When business is slow, a manager sends his other employee home early. The employee has worked 2 hours of her regularly scheduled 3 hour shift. The manager should input 3 hours of Predictability Pay for the employee on that day in the timekeeping system.
- 4) An employee received only 8 hours of rest between shifts (one shift ended at 12:00 a.m. and the next shift started at 8:00 a.m.). Because there was not 11 hours between shifts, the manager should input 4.5 hours of Predictability Pay for the employee on that day in the timekeeping system ($1.5 \times 3 \text{ hour gap} = 4.5$).

Q. Are there any exceptions to owing Predictability Pay?

A. Yes. You would not owe an employee Predictability if a schedule change is made for any of the following reasons:

- When you notify employee(s) of the schedule change more than 14 days in advance
- When the employee requests a change to the schedule;
- When the employee trades shifts with another employee;

- When operations cannot begin or continue due to reasons outside of employer's control (threats to employees or property, public utilities fail; act of God);

Examples:

- 1) An earthquake occurs, causing a store to lose water service and electrical power. As a result, the store closes for the day and sends all employees home. The Company is not obligated to pay the employees Predictability Pay.
- 2) A rainstorm causes a substantial reduction in customers coming into the business. Because of the lack of customers, the manager decides to send several employees home early. The manager must provide those employees with Predictability Pay, in addition to their regular pay for the hours worked that day, because a rainstorm does not qualify as Act of God, entirely prohibiting the business from opening or remaining open.
- 3) A crime occurs next to a store. The police have shut down the block, prohibited businesses from opening, and required businesses that have already opened to shut down. The Company is not obligated to pay employees Predictability Pay.

Offering Additional Hours to Part-Time Employees

Q. Do the Fair Workweek Standards impact how and when I hire new employees?

A. Yes. You must now offer any additional hours to your qualified part-time employees before hiring a new employee (e.g., hours are available because an employee leaves the company or hours are increased for holiday selling). A part-time employee, however, is not required to accept our offer of additional work.

Q. When would I offer additional hours to part-time employees instead of hiring a new employee?

A. You must offer hours to existing part-time employees if they are qualified and we can accommodate their availability with any and/or all of the hours available, but only up to the number of hours required to give the employee 35 hours of work in a week.

Examples:

- 1) Company A has 3 full-time employees and 1 part-time employee. When an 8 hour shift becomes available, those hours are offered to the part-time employee who indicates that she is able to work only two of those hours. Company A locates a new employee who is able to work the remaining six hours. Company A may not hire the new employee to work the entire eight-hour shift because it would not be burdensome to hire a new employee to work the remaining six hours of the shift.
- 2) Company B has additional hours available to work as a cashier in the hardware section of the store, which requires no specialized knowledge about hardware. Instead of offering the additional hours to Mr. Jones (a part-time cashier in the electronics department), the manager hires a new employee. Company B has violated the Fair Workweek Standards because Mr. Jones was qualified to work as a cashier in the hardware section as no specialized knowledge was required and the work is similar to his work as a cashier in the electronics section.

- 3) Company C has 20 hours of additional work available. Part-time employees Mrs. Jones and Mr. Smith are each scheduled to work 10 hours and they are both qualified to perform the additional work available. Company C may offer all of the hours to Mrs. Jones, and none to Mr. Smith, or vice versa; or Company C may offer some hours to Mrs. Jones and some to Mr. Smith in whatever order and proportion Company C chooses.

Q: Do I have to give advance notice to part-time employees to work additional hours?

A: Yes. The offer of additional hours must be in writing and posted in a conspicuous location. The posting must include total hours of work, schedule of available shifts, and anticipated duration. The posting can be by paper (e.g., store bulletin board) or electronically (e.g., email from store email address to all store employees).

Part-time employees must accept the offer of additional hours in writing within the required timelines:

- 72 hours if expected duration of work is longer than 2 weeks
- 24 hours if expected duration is less than 2 weeks.

If no employees accept the additional hours within the required timeframe, you may hire new employee(s) to work the additional hours.

Q. Do I have to offer additional hours to part-time employees if it means I will have to pay them daily or weekly overtime?

A. No.

Q: How long do I have to retain written offers of additional hours and employee responses?

A: Three years. Please keep all postings and employee responses in a designated place in the store.

Q. What penalties may we see if we fail to comply with the Fair Workweek Standards?

A. If we are found in violation of the Standards, we may be subject to payment of administrative fines, lost wages and/or penalties or litigation.

Please remember that retaliation against any employee that asserts his or her rights under these Standards, or cooperates with the City in enforcement, is strictly prohibited.