

Philadelphia Fair Workweek Ordinance

Frequently Asked Questions

Q. What is the Philadelphia Fair Workweek Ordinance?

A. The Philadelphia Fair Workweek Ordinance regulates the way that retail businesses schedule and retain its employees. The ordinance includes these requirements:

- New hire estimate of hours and work schedule
- 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 Ordinance requirements apply to all of my employees?

A. The regulations apply to all hourly employees working in Philadelphia.

Work Schedules and Scheduling Requirements

Q. What is the Initial Estimate of Minimum Hours?

A. We are now required to give new and existing employees a good faith estimate of hours that they will be expected to work throughout the year.

- **New Hires:** The written estimate should include an initial estimate of hours that includes 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.
- **Existing Employees:** If employee availability or business needs change in the course of employment, the estimate of hours must be updated.

B. When should I provide an Estimate of Minimum Hours?

A.

- **New Hires:** You must provide this estimate to all new employees prior to their first day of employment using the new **Initial Estimate of Minimum Hours Offer Letter Template**. The form is 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 and in the Scheduling section of HR Solutions.



Offer Letter

Country: United States

Language: English US (English US)

Template: Initial Estimate of Minimum Hours - Required for San Francisco, Seattle, Emeryville

Subject: Initial Estimate of Minimum Hours

The image shows a screenshot of a web-based form titled "Initial Estimate of Minimum Hours". The form is designed for HR managers to provide to new employees. It includes the following fields and instructions:

- Employee Name:** [CANDIDATE_FIRST_NAME] [CANDIDATE_LAST_NAME]
- Date:** [TODAY]
- Shift:** [JOB_REQISTRATION_CODE]
- Shift #:** [JOB_REQISTRATION_CODE]
- Expected COX:** [JOB_APPLICATION_CODE]
- Employee Status (PT/FT/PTFT):** [JOB_REQISTRATION_CODE]
- WFT/OT (Mark with BK):** ___ RI ___ T ___ TH ___ F ___ SA
- Minimum Number of shifts per week:** ADD IN NUMBER OF SCHEDULED SHIFTS
- Average Number of hours per week over the course of a year:** []
- Expected Shift Hours (up to 4 hours):** ADD IN SHIFT HOURS
- Expectation of on-Call Shifts:** yes ___ no ___

At the bottom of the form, there is a blue arrow pointing to the "Save" button. Other buttons include "Cancel", "Print", "Save as PDF", "Print as PDF", and "Print as PDF (background)".

- Existing Employees:** If employee availability or business needs change in the course of employment, complete and provide to the employee a **Good Faith Estimate of Hours for Existing Employees** form found on HR Solutions (See "Attendance and Scheduling" or "Compensation, Payroll, Wage & Hour" sections).

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 if the business cannot accommodate.

Q. Do I need to keep a copy of either form that I provide to my employees?

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 last date of the currently posted schedule.

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

A: 14 days in a conspicuous location accessible by all employees, or electronically.

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

A: 9 hours. A manager may not require an employee to work less than 9 hours after the end of the previous scheduled shift. If this occurs, you will be required to pay the employee Predictability Pay (see below), even if the employee agrees to work.

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. Employees who voluntarily consent to work any hours not posted in the work schedule must do so in writing.

Q. Can I require the employee to find coverage for a shift they can no longer work?

A. If the employee cannot work a shift due to a legally protected reason (FMLA, Paid Sick/Safe Time, Jury Duty, etc.), you cannot ask them to find a replacement. But if the employee does not have a protected reason for not being able to work then you may require the employee to find coverage for the shift.

Q. Do employees have the right to make work schedule requests?

A. Yes. Employees can request:

- Not to be scheduled for shifts during certain days or times, or at certain locations
- Not to work on-call shifts
- Not to work certain hours or days

Q. Do we have to allow the request for a schedule preference or change?

A. No. You are encouraged to engage in an “interactive process” and work with the employee to accommodate their schedule requests; however, you may grant or deny employee requests for any lawful reason.

Compensation for Scheduling 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 (**Exception:** for <9 hours rest between shifts, use pay code “**Predictability Pay PA**” in your timekeeping system and enter 1 hour to trigger the \$40 predictability payment due).

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 (certain exceptions apply – see below); or
- Do not schedule at least 9 hours of rest between shifts (even if the employee agrees to work).

Predictability Pay Examples:

Action Taken after schedule was posted	Predictability Pay
Schedule additions/changes with no loss of hours Ex. Add time to shift or change date/time/location of work shift with no loss of hours. Note: There is a 20-minute grace period around shift start and end times.	1 hour at the employee’s base hourly rate
Schedule reductions Ex. Shift cancelled or shortened	1/2 (0.5) of hours not worked at employee’s base hourly rate
< 9 hours of rest between shifts (even if employee agrees to work)	\$40 for each shift where 9 hours of rest was not provided.

- 1) An employee is scheduled to work an 8 hour shift. A day before the shift, the manager cancels the shift. The manager should input 4 hours of Predictability Pay for the employee on that day in the timekeeping system (0.5×8 unworked hours = 4).
- 2) An employee is scheduled to work a 4 hour shift from 12:00 p.m. to 4:00 p.m. The manager informs the employee that the shift will be extended from 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 employee home early. The employee has worked 4 hours of her regularly scheduled 8 hour shift. The manager should input 2 hours of Predictability Pay for the employee on that day in the timekeeping system (0.5×4 unworked hours = 2).
- 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 9 hours between shifts, the manager should input \$40 Predictability Pay for the employee on that day in the timekeeping system.

Q. Are there any exceptions to owing Predictability Pay?

A. Yes. You would not owe an employee Predictability Pay if any of the following apply:

- Employee begins or ends work less than 20 minutes before or after the scheduled start and end time of the shift.
- A change to posted work schedule within 24 hours of commencement of employment;
- Written request by employee to change his or her schedule;
- Employee volunteers to work additional hours due to another employee's inability to work scheduled hours **in response to a mass written communication** offering the hours that makes it clear that accepting additional hours is voluntary;
- Voluntary shift trades or coverage arrangements, subject to any employer policies;
- Emergency conditions including threats to the employee or employer's property, failure of a public utility, shutdown of public transportation, a fire, flood, or other natural disaster, state of emergency, or severe weather posing a safety hazard;
- Disciplinary suspensions due to documented incidents; or
- A reduction of hours that is due to termination of employment.

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 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 the employee Predictability Pay.
- 3) An employee gets last minute tickets to a concert tomorrow. The employee finds another employee to cover her shift through a shift swap. The manager would not owe Predictability

Pay because the employee found replacement coverage through an employee-to-employee shift swap.

- 4) An employee is scheduled to work an 8 hour shift from 12:00 p.m. to 8:00 p.m. The employee starts an argument with a customer and is sent home by the manager at 7 p.m. The manager partners with Employee Relations to document this as a corrective action. The manager would not owe the employee Predictability Pay because the employee was sent home for disciplinary reasons.
- 5) A manager is notified that the store will hold a special one-day sale in three days. The manager posts a sign in the break room asking employees to volunteer to sign up to work additional shifts on that day. The manager would not owe one hour of Predictability Pay to any employees who volunteer because the schedule change was proposed via mass communication.

Offering Additional Hours to Existing Employees

Q. Does the ordinance impact how and when I hire new employees?

A. Yes. Managers must now offer additional hours to existing employees* before hiring a new employee (e.g., hours are available because an employee leaves the company or hours are increased for holiday selling).

Q. When would I offer additional hours or job offers to existing employees instead of hiring a new employee?

A. You must offer hours to existing employees if they are qualified and we can accommodate their availability with any and/or all of the hours available.

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 Ordinances 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. How long do I have to post the offers?

A. You must post written information about additional hours/shifts for **three days** in a noticeable place, for all employees.

Q. What does the posting need to say?

A. The notice must contain the following information:

- Description and title of the position;
- Required qualifications for the position;
- Total hours of work being offered;
- Schedule of available work shifts; and
- Length of time the employer anticipates requiring coverage of the additional hours
- Note: If you do not have specific shift information, an acceptable general statement would be “hours and schedule dependent upon the employee’s availability.”

The “Offer of Additional Hours” form is available on Hot Spot (Sunglass Hut only) and HR Solutions.

Q. Where can employees access written notices of available work shifts?

A. Employees can access written notices of available work shifts next to/near posted work schedules and/or other location(s) where work schedules are accessed. The posting can be by paper (e.g., store bulletin board) or electronically (e.g., email from store email address to all store employees).

Q. How should an employee provide notice of his/her desire to accept available work shifts?

A. Employees must notify their manager of their desire to accept available work shifts in writing. This documentation should be retained in a store file in a secure location.

Q. What criteria are used for distributing work shifts among qualified and interested employees?

A. Work shifts will be distributed among qualified and interested employees based on employees’ availability and the order notice was received.

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

A. No.

Q. When can I hire a new employee?

A. If no employee accepts the offer of available work shifts:

- Within 1 day of the end of the three day posting period;
- You receive confirmation from all qualified employees that they are not interested in accepting the available work shifts; or
- Existing employees have accepted only a subset of the available shifts.

Q. How long do I have to retain written documentation of compliance with the ordinance?

A: Two years.

Q. What penalties may we see if we fail to comply with the Ordinance?

A. If we are found in violation of the Ordinances, we may be subject to payment of administrative fines, lost wages and/or penalties (ranging from \$1,000-2,000) and to award damages.

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