

Los Angeles, California Fair Work Week Ordinance (FWWO)

Communication to Field and Store Managers

Action Requested of All Los Angeles Field and Store Managers:

In November 2022, Los Angeles City Council passed legislation impacting the way that retail businesses schedule their employees. As a result, EssilorLuxottica updated changes to some of its scheduling policies and practices. Please familiarize yourself with the enclosed FAQs and information below, detailing the requirements, as well as existing pre-employment processes and scheduling practices, as the FWWO becomes effective **April 1, 2023**.

Applicable: To all employees within the geographic boundaries of Los Angeles City.

- 1. Pre-Employment:** Managers must provide specific scheduling information to employees prior to their first date of employment:
 - **Initial Estimate of Minimum Hours:** Provide each new employee with an initial estimate of hours that includes the expected minimum number of scheduled shifts per month, the days and hours of those shifts (specify start and end times where possible), 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.
 - Complete the **Initial Estimate of Minimum Hours Offer Letter Template** in Talent EssilorLuxottica Recruiting and provide it to each new employee before their first day of work.
 - The form is located within Talent EssilorLuxottica Recruiting as a required offer letter to be completed and sent when extending the offer (see FAQs for instructions).
 - **Initial Work Schedule** - Provide each new employee with an initial work schedule that runs through the last date of the currently posted schedule.
 - **Notice of Rights** - Talent EssilorLuxottica Recruiting will provide the potential new hire a copy of the Los Angeles Fair Work Week Ordinances - Notice of Rights. The document should be included with the potential new hire's offer letter.
- 2. Scheduling Requirements and Compensation for Scheduling Changes:** Managers must provide written (e.g., posting, or transmitting the work schedule by electronic means) advance notice of schedules and any scheduling changes to employees. Scheduling changes after the schedule has been posted may require additional compensation be paid to the impacted employee(s).
 - **Advance Notice of Schedules** - Managers must now provide written (e.g., postings in a conspicuous and accessible place at work or providing the schedule electronically to employees) notice of work schedules to employees at least **14 days** in advance.

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- **Right to Decline Unscheduled Hours** - If a manager makes any modifications to the work schedule after the initial work schedule is release, employees can decline to work unscheduled hours that were not initially included in the initial work schedule. If an employee should accept the change in work schedule, the change must be in writing.
- **10-Day Notice Upon Employee Request** - Managers must provide a good faith estimate of schedule within 10 days of an employee's request. If there is substantial deviation from the estimate, the manager must have documented the business reason for the change and maintain the documentation for audit purposes.
- **Employee Right to Request Changes** - Employees may exercise the right to request a preference for certain hours, times, and locations. Managers may accept or deny requests, provided the manager provides written (e.g., email, letter, other electronic means) of the reason for any denial to the employee.

3. **Offering Additional Work to Employees** - Managers must offer additional hours to existing qualified employees before hiring a new employee and the additional hours will not result in overtime for the employee (e.g., hours are available because an employee leaves the company or hours are increased for holiday selling).

- Additional hours offered to employees must be posted in a conspicuously and accessible area in the workplace for at least 72 hours before hiring a new employee (unless all employees confirm they are not interested in the new hours, in which case, the employer may proceed with fulfilling its staffing needs).

4. **Predictability Pay** -

Predictability pay is required when an eligible employee has agreed to a change in their work schedule after the advance notice requirements under the FWWO.

- The employee is paid one additional hour of pay for each change to a schedule date, time or location that does not result in a loss of time to the employee or provides more than 15 minutes of additional work time to the employee;
- If the change in schedule request in reduction in employee's work time by at least 15 minutes, then the employee pay is one-half of the time the employee does not work as set forth in the initial work schedule. For example, if an employee was scheduled to work eight hours and the employer reduces the hours from 8 to 4 hours, the employee is owed two hours of work.
- If an employee voluntarily consents to work the changed hours, the consent must be in writing.
- **Entering Predictability Pay:** Enter the appropriate number of hours using the pay code "**Predictability Pay**" in your timekeeping system.
- **Exemptions to Predictability Pay (is not required when):**
 - The employee makes the schedule change request;

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- If an employee accepts a schedule change initiated by the employer due to an absence of another employee or unanticipated customer need (but the employer must communicate that acceptance of the hours is voluntary and the employee has the right to decline);
- If the employee's hours are reduced as a result of the employee's violation of the law or the employer's lawful policies and procedures;
- If the employer's operations are compromised pursuant to law or force unforeseeable circumstances; or
- If the extra hours worked require the payment of overtime premium under the California Labor Code Section 510 (excludes paid sick/COVID pay)

5. Rest Period Between Shifts - Managers must provide a 10-hour break between scheduled shifts.

- If the 10-hour break is not followed:
- If the employee must provide written consent to be scheduled for a shift that begins less than 10 hours after the end of the previous shift.
- The employee must be paid at 1.5 times their regular hourly rate for each shift separated by less than 10 hours. See FAQ for additional details. Employees have the right to decline a shift that does not allow for the 10-hour break.

FAQs - please refer to the FAQs for additional information. The documents can be found on HR Solutions>Attendance & Scheduling Guidelines>Scheduling & Best Practices

Poster - Please print and post the Los Angeles Fair Work Week Notice in a location such as break room or where all employees have access to view the Notice.

Additional Questions? Please speak with your HRBP or manager.

Los Angeles Fair Work Week Ordinance (FWWO)

Frequently Asked Questions (FAQs)

Q. What is the Los Angeles Fair Work Week Ordinance?

A. The Los Angeles Fair Work Week Ordinance (FWWO) 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 decline unscheduled hours
- Compensation for schedule changes under certain circumstances (Predictability Pay)
- Access to hours for existing employees

Q. Do the Ordinance requirements apply to all of my employees?

A. This legislation applies to all employees who work in the boundaries of City of Los Angeles at least two (2) hours or more per week for an employer and who is entitled to be paid at least the minimum wage as published by the California Industrial Welfare Commission wage orders.

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 of their work schedules before hiring.

- **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. Please note you must list the hours of each shift, not just the total hours for the shift (ex. 8:00 am - 12:00 pm versus 4 hours).
- **Existing Employees:** Managers are required to provide a written good faith estimate of the employee's schedule within 10 days of an employee's request.

Q. When should I provide an Estimate of Minimum Hours and Notice of Rights?

A.

- **New Hires:** You must provide this estimate to all new employees prior to their first day of employment (start date) 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.

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"/>

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Employee Name: [[CANDIDATE_FIRST_NAME]] [[CANDIDATE_LAST_NAME]]
Date: [[TODAY]]
Brand: [[JOB_REQUISITION_CUSTOM2]]
Store #: [[JOB_REQUISITION_CUSTOM16]]
Expected DOH: [[JOB_APPLICATION_CUSTOM1]] [[JOB_APPLICATION_CUSTOM5]]

Employment Status (FT/PT/CPT/S): [[JOB_REQUISITION_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 Shifts:(ex 4 hours or 8am-12pm): **ADD IN SHIFT HOURS**

Expectation of on Call Shifts: __Yes __No

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 and Los Angeles Fair Work Week Ordinances - Notice of Rights.

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 transmitting the Work Schedule electronically to each employee. If any changes are made to the work schedule after the initial 14 days, the revised schedule must be re-posted within 24 hours.

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

A: 10 hours. A manager may not require an employee to work less than 10 hours after the end of the previous scheduled shift, unless the employee agrees in writing (text or email acceptable). If this occurs, you will be required to pay the employee 1.5x (premium pay) for all hours worked for the additional shift. Premium Pay shall be equal to 1.5x the employee's regular rate of pay.

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

A. Yes, an employee may decline to work any hours, shifts or work location changes that is 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 (text or email acceptable).

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.

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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 less than 14 days before the posted work schedule starts. 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, employers must provide additional compensation when they initiate schedule changes less than **14 days** before the posted work schedule starts.

Employer-Initiated Change	Predictability Pay
Increase in hours that exceed 15 minutes	One (1) hour at the Employee’s regular rate of pay
Change to date, time, or location (but no change in hours)	One (1) hour at the Employee’s regular rate of pay
Reduction of hours by at least 15 minutes	Hours not worked at one-half the Employee’s regular rate of pay
On-call shift when the employer does not call the employee to perform work	Hours not worked at one-half the Employee’s regular rate of pay

- 1) 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.
- 2) 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 x 4 unworked hours = 2).

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:

- The employee makes the schedule change request;
- If an employee accepts a schedule change initiated by the employer due to an absence of another employee or unanticipated customer need (but the employer must communicate that acceptance of the hours is voluntary and the employee has the right to decline);
- If the employee’s hours are reduced as a result of the employee’s violation of the law or the employer’s lawful policies and procedures;
- If the employer’s operations are compromised pursuant to law or force unforeseeable circumstances; or
- If the extra hours worked require the payment of overtime premium.

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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 Company 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 Company would not owe the employee Predictability Pay because the employee was sent home for disciplinary reasons.

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). (1) Additional hours must be posted and accepted within **3 days (72 hours)**. (2) If anytime during the 72-hour period, if the manager receives written confirmation from all its employees that are not interested in accepting additional hour of work, the manager may immediately proceed with hiring a new employee or retaining a contractor (temporary service or staffing agency). An existing employee, however, is not required to accept our offer of additional work. The "Offer of Additional Hours" form is available on HR Solutions.

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.

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3) Company C has 20 hours of additional work available. Part-time employees Ms. 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 Ms. Jones, and none to Mr. Smith, or vice versa; or Company C may offer some hours to Ms. 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 the offers for the following timeframes:

- Employers must post written information about additional hours for **three days** in a noticeable place, for all employees. 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. 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 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, such as electronically.

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:

- By 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: Three years. This includes:

1. Work schedules of all employees;

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2. Copies of written offers to employee for additional work hour and written responses from employees; Written correspondence between the manager and employee regarding Work Schedule changes including, but not limited to request, approvals, and denials;
3. Initial Estimate of Minimum Hours (new and existing employees);
4. And any other record or document demonstrating compliance with the Fair Work Week Ordinance.

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