Evanston Fair Workweek Ordinance FAQ

1. **What is a Fair Workweek Ordinance?**

Fair workweek ordinances, also known as fair or predictable scheduling ordinances, aim to give employees more predictability in their schedules to be able to accommodate everyday needs, including securing stable childcare, attending doctor appointments, holding down second jobs, pursuing higher education, or managing family and caregiving responsibilities. Evanston's Fair Workweek ordinance requires certain employers to:

   a. Provide employees with 14 days' notice of their work schedules;
   b. Compensate employees for changes or cancellations to their scheduled shifts that occur with less than 14 days' notice;
   c. Offer additional hours to existing employees before hiring new part-time employees; and
   d. Provide additional pay for employees who agree to work "clopening" shifts that start less than 11 hours after the last shift ended.

The ordinance also protects employees against retaliation for exercising their rights to stable and predictable schedules.

2. **Who is covered by this ordinance?**

The ordinance applies to employers in Evanston who have 100 or more employees globally, including franchises, in one of the following industries:

   a. Hospitality
   b. Retail
   c. Warehouse Services
   d. Manufacturing
   e. Building Services

Employers in the Food Service and Restaurant industries must have at least 30 locations globally and at least 200 employees to be covered by the ordinance.

3. **At what rate do covered employers compensate employees for changes or cancellations to their scheduled shifts that occur with less than 14 days' notice?**

Where employees are entitled to "predictability pay" under the statute, the rate of predictability pay is equal to the regular hourly rate of pay for the affected employee. For example, if an employee's regular rate of pay is $15 per hour, one hour of "predictability pay" would also be paid at $15 per hour.

4. **What notices do employers need to provide to covered employees?**

Every covered employer in Evanston must post in a clear and obvious place any notifications, schedules, and other information related to their obligations under the Fair Workweek Ordinance. This can be on a bulletin board, in a break room, or other place that will be obvious and accessible to employees.
Employers must also include a notice about this ordinance with each employee's first paycheck.

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Employers are also strongly encouraged to include a notice to existing employees with the first paycheck of 2024. A draft of that notice can be found **here**.

5. **Can notices regarding a schedule change be transmitted electronically?**

Yes, employers may notify employees of changes to their schedule via electronic means, like an email or text message.

6. **Are there situations where an employee will not be owed predictability pay even though there was a change to their schedule with less than 14 days' notice?**

Yes. Employees of covered employers are not owed predictability pay if:

   a. The employees are covered by a collective bargaining agreement (CBA) that explicitly and unambiguously waives coverage by the ordinance (in its entirety, or the section providing for predictability pay).
   b. There are extenuating circumstances laid out in section 3-34-5(D) of the ordinance, which includes acts of nature, utility failures, or acts of unrest.
   c. The change is initiated by the employee and not the employer.

7. **What does it mean to post a schedule 14 days in advance?**

Employers have to post schedules 14 days before the first scheduled shift, not a schedule that covers 14 days. For example, an employer could post a work schedule for September 15 on September 1 and post a schedule for September 16 on September 2, etc. As long as the schedule is posted 14 days before the shift starts, the employer is in compliance with the ordinance. Nothing in the ordinance prohibits an employer from posting a schedule more than 14 days in advance.

8. **Are split shifts allowed under the Fair Workweek Ordinance?**

Split shifts—where the number of hours an employee works in a day is "split" with a period of time where the employee is not working—are allowed and employees are not entitled to any additional pay for working a split shift. The Right to Rest provision of this ordinance does not prohibit split shifts, and should not be interpreted as such. The Right to Rest provision is intended to give employees the opportunity to sleep sufficient hours from one day to the next. However, if the split shift begins on one day and resumes the next day, without 11 hours of rest in between, then the employee is entitled to 1.5x their regular pay for the hours worked in the second part of the shift.

   a. Example: An employee begins a shift on Monday at 8pm and ends the shift at 4am on Tuesday. Any hours worked before 1pm on Tuesday will be subject to 1.5x the employee's hourly rate.
   b. Example: An employee works 8am to 2pm on Monday and then again from 6pm to Midnight that same day. They are not owed 1.5x their hourly rate for any hours in that split shift. However, if instead they work 10pm to midnight on Monday, and then work the second part of their shift from 6am to noon on Tuesday, they would be entitled to pay at 1.5x their hourly rate for the hours worked on Tuesday.

9. **Is there a buffer for employees to log in or out a few minutes early or late so as not to trigger predictability pay?**

Employees who log in and log out a total of at least 20 minutes per shift are owed predictability pay. Those who log in and/or log out under a total of 20 minutes per shift are not owed predictability pay.

   a. Example: An employee logs in 3 minutes early of their own volitions and logs out 10 minutes late, again of their own volition. They are not owed predictability pay.
   b. A different employee is asked to come in early to address a specific need and they log in 25 minutes early.They are owed predictability pay.

10. **Can employees receive predictability pay and hazard pay at the same time?**

No, predictability pay and hazard pay are mutually exclusive. Situations that require hazard pay like storms, pandemics, or other emergencies are also situations excluded from predictability pay under the Fair Workweek Ordinance.

11. **What if my job is to be on call? Am I automatically owed predictability pay if I get called in for a shift?**

Any on-call Covered Employee who is compensated during their on-call shift at a regular hourly rate is not owed Predictability Pay if they are called in for a shift.
If an on-call Covered Employee is not compensated or compensated at a rate below their hourly working rate:

   a. They are owed predictability pay if they are called in for a shift
   b. They are owed predictability pay for four hours or the number of hours in the Employee's scheduled Shift, whichever is less, if they are not called in for that shift

12. **How many hours do employees need to be offered before an employer can post for new positions?**

Employers have to offer up to a total of 35 hours to any current part-time employee before posting for a new position. Once all interested employees have been offered at least 35 hours, employers may seek to hire additional employees. Employees do not have to accept up to 35 hours for the employer to seek additional employees.

13. **Do employers with multiple locations have to offer additional hours**

If it is the Employer's regular practice to schedule Covered Employees across multiple locations, and no qualified Covered Employee at the workplace where the additional hours are made available accepts the hours, then Covered Employees at the Employer's other locations must be given priority before any outside hiring commences.