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***INTERDEPARTMENTAL MEMORANDUM***

***DATE:*** February 8, 2008

***TO:*** Human Resource Directors/Officers/Representatives

***FROM:*** J. Thaddeus Cotnoir, Merit System Coordinator

***SUBJECT:*** HR Memorandum 2-08: Alternate Work Schedules

Attached is an HR Memorandum regarding Alternate Work Schedules. This memorandum supersedes HR Memorandum 4-83. Some key changes/updates include:

1. The employer's response to a request for Alternate Work Schedule has to be in writing and has to be provided to the employee within 30 calendar days of the request.
2. If a request for Alternate Work Schedule is denied, the employee may appeal to the reviewer (i.e. person who signs as reviewer on the performance appraisal) for reconsideration. This was done because of many complaints that people doing identical jobs and working in the same office were treated differently depending on who the supervisor was. The reviewer would be addressing any inequities among similarly situated employees.

We advise that any Alternate Work Schedule arrangement be put in writing and be time-limited, so we can check it periodically and see if it is still meeting the needs of the employer. (If it is working, we can always renew it.)

**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF HUMAN RESOURCES**

February 8, 2008

**HUMAN RESOURCE MEMORANDUM 2-08**

TO: Service Center Directors, Deputy Directors, Human Resource Directors

***SUBJECT: ALTERNATE WORK SCHEDULES***

Human Resource Memorandum 2-08 implements changes to HR Memo 4-83, which is superseded.

**I. DEFINITIONS**

Alternate work schedules in Maine State Government are defined to include the following variations: Staggered Work Hours, Flexible Work Schedules, or Flex-Time, Compressed Workweek, and Job Sharing.

**A. Staggered Work Hours**

This is the most frequently used form of alternate work schedules. Basically, staggered work hours provide that an employee or group of employees work a fixed schedule with staggered starting and quitting times. For example, within a given department, employee schedules may vary as follows: 7:15 a.m. to 4:15 p.m. (one hour lunch), 7:30 a.m. to 4:00 p.m. (half-hour lunch), and 8:00 a.m. to 5:00 p.m. (one hour lunch).

Employees are expected to work a five-day week comprised of 8-hour days with fixed starting and ending times. As a result, staggered work hours are not representative of what is commonly referred to as "alternate work schedules."

**B. Flexible Work Schedules or Flex-Time**

There are several variations of flex-time, but each has the common element of allowing the employee a range of possible work hours beyond the limits of fixed starting and quitting times.

For example, the range of work hours could be designated as 6:30 a.m. to 6:00 p.m. During this period, the work day is generally comprised of "core" time and "Flexible" time.

1. **Core Time** – This is the time during which all employees must be present (for example, 9:30 a.m. to 3:00 p.m. or 10:00 a.m. to 2:00 p.m., etc.) except for a lunch break. Core hours are based on the operational needs of the work unit.
2. **Flexible Schedules** – This is the period during which all employees may select variable starting and quitting times (flexible starting time between 6:30 a.m. and 9:30 a.m. and flexible quitting time between 3:00 p.m. and 6:00 p.m.).

Lunch breaks may be specified to a fixed period of time during which employees must take a lunch break or a midday flexible range (e.g., 11:30 a.m. to 1:30 p.m.) that employees may use as desired.

The two most common forms of flex-time are:

1. Flexible Hours – Employees are free to select and vary their work hours each day, provided they are present during any core hours that may be specific to a worksite and/or a specified cumulative number of hours are worked within a given pay period (e.g. 40 hours weekly, 80 hours bi-weekly). The number of hours worked each day may vary.
2. Floating Day – Employees are required to work the same number of hours each day (usually 8 hours), but they still retain flexibility as to which hours will be worked, including core hours, if applicable.

### C. Compressed Workweek

This schedule allows employees to compress working hours into fewer than 5 days per week or fewer than 10 days bi-weekly. Compressed work schedules may require “core” days which are the days (normally Tuesday through Thursday), in which all employees must be present. It is recognized that operational needs may require extended hours or extended days. Common examples of compressed workweeks include:

1. Four-day Week – Employees compress their workweek into four days. Generally, that equates to four 10-hour days.
2. Four and a Half-Day Week – Employees work more than eight hours four days per week and less than 8 hours one day per week. Generally, that equates to four 9-hour days and one 4-hour day.
3. Bi-Weekly - Exempt<sup>1</sup> employees work a schedule sufficient to complete all of the necessary work for a two week period and still maintain coverage for operational needs. Example: Ten days worked, eight hours per day, followed by four days off. Eight ten hour days followed by six days off.
4. Other similar arrangements as mutually agreed.

Compressed workweeks may be rotated so that employees may alternate days off (e.g. Monday one week, Friday another week) or the day(s) off may be fixed. However, once

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<sup>1</sup> An “exempt” employee is *not* eligible for overtime either by virtue of the bargaining agreement or a Fair Labor Standards Act determination. There are certain limited circumstances where exempt employees may receive overtime compensation (e.g. holiday pay, certain law enforcement scenarios, exceptional circumstances approved by BHR), but generally exempt employees do not receive any form of overtime. A “non-exempt” employee is eligible for overtime by virtue of the bargaining agreement or a Fair Labor Standards Act determination.

the compressed schedule has been established, the schedule should be consistent. Employees should not expect to periodically alter their compressed workweek schedules, although "make-up" time may be permitted if mutually agreeable to both the employee and the agency.

#### D. Job Sharing

Job Sharing is defined as two or more employees sharing the duties and responsibilities of one position. Agencies must maintain comparable assignments for each employee within the shared job. The sharing of one position must be limited to sharing the tasks and responsibilities of one job classification and the duties must be shared in an equitable fashion.

Work schedules may be shared on a daily, weekly, bi-weekly, annual, or any other mutually agreed upon basis. Hours per day or per week should be fixed for each employee sharing a position; however, employees may voluntarily exchange or alter schedules on either a regular or irregular basis with notice to the supervisor.

Once a job sharing position has been established, authorized hours will also be designated for each employee sharing the position. If two employees share a position with each employee working twenty hours per week, the number of authorized hours for each employee shall be twenty. Agencies should maintain employee schedules in accordance with authorized hours.

It is recommended that job share assignments and authorized hours not be established in fractional hours. Whenever possible, it is recommended that authorized hours be designated at increments easily divisible by 4.

Whenever one of the employees in a job shared position separates:

1. A new employee may be appointed to share the position.<sup>2</sup>
2. The position may be returned to a full-time schedule if only one employee remains.
3. The position may be shared by the remaining employees if more than one remains.

Note: If an agency chooses to alter a job shared arrangement, the agency must notify the appropriate bargaining agent of the proposed changes and negotiate the impact of such changes in accordance with existing contract language governing hours and work schedules.

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<sup>2</sup> When a portion of a job shared position becomes vacant and the remaining incumbent(s) wish to continue the job shared arrangement, agencies are encouraged to recruit candidates from within the department/agency. If there are no interested employees within the department, the agency should contact the Bureau of Human Resources to determine if there are interested candidates among statewide and open competitive applicants.

Any change to a job sharing arrangement will be accomplished in a manner so as to have the least possible adverse impact on incumbent employees.

## II. GENERAL GUIDELINES

The following represent general guidelines relative to alternate work schedules in State Government:

1. Alternate work schedules represent voluntary, mutually acceptable adjustments to an employee's workweek. Alternate work schedules shall not be imposed.
2. The adoption of alternate work schedules shall not result in the increase (or decrease) of work loads for employees who choose either to participate or not to participate.
3. Although alternate work schedules shall not be implemented if they cause an adverse impact to an employee, alternate work schedules should not be abandoned simply because not all employees can participate.

Denying alternate scheduling or denying a change to an existing alternate scheduling shall be documented by the supervisor denying such scheduling. No employee may be arbitrarily denied AWS. Denials must be with reasons being provided specific to the employee and work site. Permission or refusal shall be provided within thirty calendar days of the original request.

a. In the event an employee is denied an AWS, the employee may request reconsideration by his or her reviewer, whose decision is final.

4. Each proposal should be considered individually although operational needs, unique circumstances, work routines, required communication with peers, subordinates, and supervisors should also be considered.
5. Supervisors and managers are encouraged to discuss alternate work schedules with their respective employees and to develop plans within working units.
6. Although alternate work schedules may extend employee work hours beyond 5:00 p.m. unless otherwise provided, agencies should not alter the current policy of providing service to the public from 8:00 a.m. to 5:00 p.m., or other hours as duly authorized.
7. Alternate work schedules should not be approved or denied when based primarily on such characteristics as classification, pay range, or occupational group.
8. Personnel assigned field activities shall be allowed to schedule work independent of office-unit core hours.

9. Employees on non-standard work schedules will retain their current status and work schedules.
10. A minimum lunch period of one-half hour is required for employees on compressed or flex-time schedules.
11. An employee who temporarily or permanently is assigned to a new work location may negotiate with his/her supervisor to establish a work schedule. An employee who changes work assignments (e.g., transfer, promotion, etc.) is not guaranteed that the previously agreed upon work schedule will remain in effect.
12. An employee and supervisor may negotiate any temporary change in work schedules as a result of workloads, illness, vacations, leaves of absence, etc.

### III. HOLIDAYS

There are several ways to address the issue of holiday credits and compensation for the purpose of alternate work schedules.

#### A. Compressed Workweek

Under normal circumstances, when a holiday occurs on an employee's regularly scheduled day off, the employee shall be credited with eight hours leave.

##### 1. Compressed Forty-Hour Workweek

For compressed workweeks, the easiest (and often the most equitable) procedure to administer is: In the event of a holiday, the employee will revert to the standard work schedule for that particular week. For example, when a holiday occurs on an employee's scheduled day off, the employee would work the standard four 8-hour days for that week. This ensures equitable treatment for all employees and allows for adequate staffing during an abbreviated workweek.

In the event that reverting to the standard workweek is not appropriate, there are several other options governing holidays for compressed forty-hour workweeks which the parties have endorsed. They are as follows:

- a. If a holiday occurs on an employee's scheduled day off, the employee shall be allowed, depending on operational need, to take another day off within the same week of the holiday or the employee shall be credited with eight hours compensatory time on an hour-for-hour basis. The employee is required to work or charge leave totaling 32 hours (excluding holiday time) during the week within which the holiday was charged.
- b. Employees working a 4 or 4½ day forty-hour compressed workweek may not increase their daily work hours in excess of 10 hours per day. For example, an

employee is scheduled to work four 10-hour days with Friday off and a holiday occurs on Monday. The employee would take Monday, the holiday, off and could work three 10-hour days and on Friday, either work 2 hours or charge 2 hours of leave.

- c. If two holidays occur in a week, the employee may revert to the standard 8-hour days for that week. The employee is required to work or charge leave (excluding holiday time) totaling 24 hours during the week within which the two holidays were charged.

## 2. Compressed Bi-Weekly Schedule: Overtime Exempt Employees only

- a. If a holiday occurs on the employee's scheduled day off, the employee shall be allowed, depending on operational need, to take another day off within the same bi-weekly pay period in which the holiday occurs or the employee shall be credited with eight hours compensatory time on an hour-for-hour basis. The employee is required to work or charge leave (excluding the holiday time) totaling 72 hours during the bi-weekly period within which the holiday was charged. (Therefore, an employee would be scheduled to work eight 9-hour days during any bi-weekly period in which a holiday occurs.)

### B. Job Sharing

For a job shared position, holiday credits shall be prorated based on the number of regularly scheduled authorized hours.

### C. Flex-Time

For employees on both the "flexible hours" and the "floating day" no special holiday leave procedures are required.

## IV. VACATION LEAVE

The rate of accrual for vacation leave remains unchanged under alternate work schedules, regardless of the employee's work schedule. However, the use of vacation leave is contingent upon the employee's schedule.

### A. Compressed Workweek

An employee on either a weekly or bi-weekly compressed schedule who takes a day of vacation leave shall be charged the same number of hours leave as the regularly scheduled work day. For example, an employee working the 4-day forty-hour week would charge 10 hours leave while the employee on a bi-weekly schedule would charge 9 hours or 8 hours, depending upon the particular day.

### B. Flex-Time

An employee on flex-time shall be charged 8 hours for each day of vacation leave used.

### C. Job Sharing

An employee in a job shared position shall be charged vacation leave in accordance with the employee's regular schedule. Hours charged shall equal hours scheduled.

## V. SICK TIME

The rate of accrual for sick leave remains unchanged under alternate work schedules, regardless of the employee's work schedule. However, the use of sick leave is contingent upon the employee's work schedule.

### A. Compressed Workweek

An employee on either a weekly or bi-weekly compressed schedule who takes a day of sick leave shall be charged the same number of hours leave as the regularly scheduled work day. For example, an employee working the 4-day forty-hour week would charge 10 hours leave while the employee on a bi-weekly schedule would charge 9 hours or 8 hours, depending upon the particular day.

### B. Flex-Time

An employee on flex-time will normally be charged 8 hours for each day of sick leave used. An employee who uses sick leave at the end of the week will be charged for the number of hours necessary to account for a 40-hour week, but not to exceed 10 hours.

### C. Job Sharing

An employee in a job shared position shall be charged sick leave in accordance with the employee's regular schedule. Hours charged shall equal hours scheduled.

## VI. BEREAVEMENT LEAVE

A "day" for the purpose of bereavement leave is defined as any regularly scheduled workday regardless of the number of hours an employee is scheduled to work on such days as bereavement leave is used. Therefore, a day of bereavement is not necessarily limited to an 8-hour day.

For example, an employee is scheduled to work a 4½ day week (9 hours Monday through Thursday and 4 hours on Friday). If the employee charges bereavement leave for Wednesday, Thursday, and Friday, the employee would charge a total of 22 hours to bereavement leave.



## VII. ADMINISTRATIVE LEAVE

The guidelines for bereavement leave also apply to administrative leave. The exception would be for an employee on flex-time who actually worked in excess of 8 hours on a day that administrative leave had been granted. In that case, the employee would charge the actual time worked.

## VIII. OVERTIME

Overtime shall be approved in advance in accordance with agency/department policy.

### A. Compressed Workweek

#### 1. 40-Hour Weekly Compressed Schedule

Overtime for an employee working a 40-hour compressed workweek (e.g., 4 days or 4½ days) will be determined by the hours actually worked in excess of the regularly scheduled work hours (if greater than or equal to 8) or 40 hours of actual work in any workweek.

### B. Flex-Time

Overtime for an employee working a 40-hour flex-time schedule will be determined by the hours actually worked in excess of 40 hours.

### C. Job Sharing

Overtime for a job sharing employee will be determined by the hours actually worked in excess of the regularly scheduled (authorized) work hours. Overtime for job sharing positions should be limited to emergency situations.

**S/ Alicia Kellogg**

Alicia Kellogg, Director

Bureau of Human Resources