



**W**hen employers use unfair scheduling practices, their employees pay the price. Unfair scheduling is on the rise due to recently developed software scheduling that enables retailers to schedule staff based solely on projected traffic flow with no regard to employees' lives.

As a result, low-wage, hourly workers struggle with a range of pay and time management barriers that directly impact their economic stability and ability to meet their most basic family caregiving responsibilities.

## **WHAT IS UNFAIR SCHEDULING?**

There are several scheduling practices that fall under the umbrella of unfair scheduling, and they hit low-wage workers the hardest, 65% of whom are women in Oregon<sup>1</sup>:

**UNSTABLE SCHEDULING & PAY** is when employees aren't scheduled for a consistent number of hours (say 20 one week, 40 the next), so they can't count on a predictable income to pay bills. This occurs when their shift is cancelled or they're sent home early and the income that they count on doesn't come through. It also happens in reverse when employees are required to be "on call" in case they're needed, but aren't paid for being available if they're not called in. This "on call" practice causes pay unpredictability and can prevent employees from holding a second job to make up for the unfulfilled "on call" pay.<sup>2</sup>

**UNPREDICTABLE SCHEDULING** happens in a number of ways. It happens when employers give their employees a work schedule with just a few days (or even hours) notice. It can also mean receiving a work schedule that is then subject to frequent changes with little notice, disrupting employees' out-of-work responsibilities and, often, childcare arrangements.

This also occurs when an employee can be put "on-call" without pay, so they have to be available on a moment's notice and don't know if they will be working until just hours before a shift begins. Between 19 and 31% of workers are being asked to stay overtime with little to no notice.<sup>3</sup> Last-minute, mandatory overtime instantly changes an employee's same-day arrangements, including childcare and, when turned down, can result in a retaliatory reduction in hours going forward.

**NO CONTROL OVER SCHEDULING** means workers have very little, if any, input into when they work and take time off. This can mean work hours that don't match known out-of-work responsibilities or being scheduled for fewer hours than desired by the employee. About half of low-wage workers say they have limited control over the timing of their work hours.<sup>4</sup>

## **HOW DOES UNFAIR SCHEDULING HURT OREGON FAMILIES?**

Unfair scheduling causes pay and scheduling instability for employees that has far-reaching effects on short- and long-term economic security, health, and children's outcomes. Here's how:

- It prevents employees from being able to predict their earnings.
- It makes it difficult for employees to schedule health and other needed appointments for themselves and their loved ones.
- It prevents employees from holding a second job, if needed, to earn sufficient income.
- It prevents parents from planning for quality, affordable, consistent childcare, and their children suffer as a result.

## HOW CAN WE ENSURE THAT ALL OREGONIANS HAVE FAIR SCHEDULING?

Family Forward Oregon is actively working on new legislation in Oregon (HB 3377-1 and SB 888-1) designed to improve how employee schedules are managed and shared, with the goal of making it possible for employees to reasonably predict their pay and plan their lives. These bills would require the following improved scheduling practices:

### Right to Request Without Retaliation:

- Employees would have the right to request schedule accommodations free from retaliation.
- Requests can be denied for any reason generally, but there is a right to receive the request for special situations (serious health condition, caregiving responsibilities, second job, educational or job training programs) unless there is a bona fide business reason for denial.
- Both hourly and salaried employees are covered by this protection.

### Reporting Time & On-Call Pay:

- If workers report for work and are sent home early, they would receive 4 hours of pay at their regular rate of pay or pay for that shift if it is under 4 hours, whichever is less.
- When a worker is placed “on call” — either to wait for a call to come into work or to call the employer to see if she is needed within 72 hours of the shift starting — they are entitled to 4 hours of regular pay or pay for the shift, whichever is less.
- Only hourly workers are covered by these provisions; salaried employees are not covered.

### Predictable Scheduling & Pay:

- Schedules must be provided to employees at least three weeks in advance. Employees are paid one hour of “predictability pay” (at their regular rate) for any scheduling change 21 days to 24 hours before the shift (including added hours, canceled regular or on-call shifts, or moved shifts).
- Employees are paid for the hours they’re scheduled or 4 hours (whichever is fewer) when shifts are cancelled or shortened within 72 hours of starting, including an unworked on-call shift.
- Only hourly workers are covered by these provisions; salaried employees are not covered.

**Public Posting:** Employers must post a worksite-wide schedule 21 days in advance showing all employees’ schedules at the worksite and must update it if there are changes. This schedule must include workers who are not scheduled for the week and must distinguish between regular and on-call shifts.

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<sup>1</sup> National Women’s Law Center. Women in the Low-Wage Workforce by State. 2014. available from: [http://www.nwlc.org/sites/default/files/pdfs/pv\\_fs\\_low\\_wage\\_state\\_tables.pdf](http://www.nwlc.org/sites/default/files/pdfs/pv_fs_low_wage_state_tables.pdf)

<sup>2</sup> Lamberts J, Fugiel PJ, Henly Jr. Precarious work schedules among early employees in the US: a national spotlight. University of Chicago; 2014. available from: [http://ssascholars.uchicago.edu/work-scheduling-study/files/lambert.fugiel.henly\\_precarious\\_work\\_schedules.august2014.pdf](http://ssascholars.uchicago.edu/work-scheduling-study/files/lambert.fugiel.henly_precarious_work_schedules.august2014.pdf)

<sup>3</sup> Watson, Liz and Jennifer E. Swanberg. Flexible Workplace Solutions for Low-Wage Hourly Workers: A Framework for a National Conversation. 2010. Available at: <http://workplaceflexibility2010.org/images/uploads/whatsnew/Flexible%20Workplace%20Solutions%20for%20Low-Wage%20Hourly%20Workers.pdf>

<sup>4</sup> Ibid.

