

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

(Added Pub. L. 97-221, §2(a)(2), July 23, 1982, 96 Stat. 230.)

§ 6128. Compressed schedules; computation of premium pay

(a) The provisions of sections 5542(a) and 5544(a) of this title, section 7453(e) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by the applicable provisions referred to in subsection (a) of this section. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding section 5544(a) or 5546(a) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act (29 U.S.C. 207) whichever provisions are more beneficial to the employee.

(Added Pub. L. 97-221, §2(a)(2), July 23, 1982, 96 Stat. 230; amended Pub. L. 102-40, title IV, §403(c)(3), May 7, 1991, 105 Stat. 240; Pub. L. 102-378, §2(44)(E), Oct. 2, 1992, 106 Stat. 1352.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-378, §2(44)(E)(i), substituted “5542(a) and 5544(a)” for “5542(a), 5544(a), and 5550(2)”.

Subsec. (c). Pub. L. 102-378, §2(44)(E)(ii), substituted “5544(a) or 5546(a)” for “5544(a), 5546(a), or 5550(1)”.

1991—Subsec. (a). Pub. L. 102-40 substituted “section 7453(e)” for “section 4107(e)(5)”.

§ 6129. Administration of leave and retirement provisions

For purposes of administering sections 6303(a), 6304, 6307(a) and (d), 6323, 6326, 6327, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

(Added Pub. L. 97-221, §2(a)(2), July 23, 1982, 96 Stat. 231; amended Pub. L. 103-329, title VI, §629(a)(2)(A), (b)(2), Sept. 30, 1994, 108 Stat. 2423.)

AMENDMENTS

1994—Pub. L. 103-329 substituted “6307(a) and (d)” for “6307(a) and (c)” and inserted “6327,” after “6326.”

§ 6130. Application of programs in the case of collective bargaining agreements

(a)(1) In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.

(Added Pub. L. 97-221, §2(a)(2), July 23, 1982, 96 Stat. 231.)

§ 6131. Criteria and review

(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

(1) establish such schedule; or

(2) continue such schedule, if the schedule has already been established.

(b) For purposes of this section, “adverse agency impact” means—

(1) a reduction of the productivity of the agency;

(2) a diminished level of services furnished to the public by the agency; or

(3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule).

(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the “Panel”).

(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency’s determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency’s determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

(D) Any such schedule may not be terminated until—

(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

(ii) the date of the Panel’s final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.

(Added Pub. L. 97–221, §2(a)(2), July 23, 1982, 96 Stat. 231.)

§ 6132. Prohibition of coercion

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

(1) such employee’s rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee’s right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee’s right to request an agency determination under section 6127(b)(2) of this title.

(b) For the purpose of subsection (a), the term “intimidate, threaten, or coerce” includes, but

is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(Added Pub. L. 97–221, §2(a)(2), July 23, 1982, 96 Stat. 232.)

§ 6133. Regulations; technical assistance; program review

(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

(A) the efficiency of Government operations;

(B) mass transit facilities and traffic;

(C) levels of energy consumption;

(D) service to the public;

(E) increased opportunities for full-time and part-time employment; and

(F) employees’ job satisfaction and nonwork-life.

(c)(1) With respect to employees in the Library of Congress, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Librarian of Congress.

(2) With respect to employees in the Government Publishing Office, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Director of the Government Publishing Office.

(3) With respect to employees of the Architect of the Capitol and the Botanic Garden, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Architect of the Capitol.

(Added Pub. L. 97–221, §2(a)(2), July 23, 1982, 96 Stat. 233; amended Pub. L. 101–163, title III, §312, Nov. 21, 1989, 103 Stat. 1065; Pub. L. 111–68, div. A, title I, §1302(2), Oct. 1, 2009, 123 Stat. 2034; Pub. L. 113–235, div. H, title I, §1301(b), (d), Dec. 16, 2014, 128 Stat. 2537.)

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111–68 added par. (3).

1989—Subsec. (c). Pub. L. 101–163 designated existing provisions as par. (1) and added par. (2).

CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in subsec. (c)(2) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

“Director of the Government Publishing Office” substituted for “Public Printer” in subsec. (c)(2) on authority of section 1301(d) of Pub. L. 113–235, set out as a note under section 301 of Title 44, Public Printing and Documents.