

# MS 630 Direct Hire Hours of Duty

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## 1.0 Purpose

This Manual Section sets forth the Peace Corps policy governing hours of duty or work, including the Alternative Work Schedules (AWS) program at the Peace Corps and the official

hours of duty policy for all Peace Corps U.S. Direct Hire (USDH) employees, regardless of location of assignment.

This Manual Section also establishes the Peace Corps' policy regarding nursing mothers.

It is the policy of Peace Corps to foster a workplace environment predicated upon a humane approach to working life. This policy is intended to increase opportunities for employee satisfaction, development, and fulfillment and to maximize employee creativity and productivity.

## **2.0 Scope**

This section covers all Peace Corps employees in domestic and overseas offices except Foreign Service National (FSN) employees, employees on intermittent appointments and personal services contractors.

## **3.0 Authorities and Background**

- (a) "The Federal Employees Flexible and Compressed Work Schedules Act of 1982," Public Law 97-221 (1982), codified in 5 U.S.C. §§ 6120-33.
- (b) Office of Personnel Management (OPM) regulations in Subpart D of 5 CFR Part 610.
- (c) OPM website on work schedules (<http://www.opm.gov/oca/worksch/INDEX.asp>).
- (d) Foreign Affairs Manual, Volume 3, Chapter 2330.
- (e) Section 4207 of the Patient Protection and Affordable Care Act (Act), Pub. L. 111-148, which added a new subsection (r) to section 7 of the Fair Labor Standards Act of 1938 (FLSA) (codified as amended at 29 U.S.C. 207(r)).
- (f) Office of Personnel Management Memo: Nursing Mothers in Federal Employment (12/22/10).
- (g) Section 631, 2002 Treasury and General Government Appropriations Act, Pub. L. 107-67 (11/12/01).

## **4.0 Hours of Work - Domestic Application**

### **4.1 Basic 40-Hour Work Week Schedule for the Peace Corps**

- (a) Each full-time Peace Corps employee has a basic administrative work week of 40 hours.
- (b) The hours of work within that workweek must be performed within a period of not more than six of any seven days.
- (c) Assignments to tours of duty must be scheduled at least one week in advance

- (d) The basic 40-hour workweek is five days, Monday through Friday when possible, and the two days outside the workweek shall be consecutive.
- (e) Working hours during each day of the basic work week shall be the same and the basic non-overtime workday may not exceed eight hours.

## **4.2 Holidays and the Basic Workweek**

For holidays and any other day declared to be a holiday by Federal statute or Executive Order:

- (a) Where the holiday occurs on a Saturday, the Friday immediately preceding shall be a legal public holiday
- (b) Where the holiday occurs on a non-workday for an employee who's basic 40-hour workweek is other than Monday through Friday, the workday immediately preceding that non-workday shall be a legal public holiday for the employee.
- (c) Where the holiday occurs on a Monday that is a regularly scheduled workday for an employee at a duty post outside the United States, whose basic workweek is other than Monday through Friday, the legal public holiday for that employee shall be the first workday of the workweek in which that holiday falls.

## **4.3 Employee Rights**

Public Law 97-221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, provides specific protections against intimidating, threatening, coercing, or interfering with an employee's right to elect an arrival or departure time, to work or not work credit hours, or to request compensatory time off in lieu of overtime pay—rights the exercise of which is always subject to agency restrictions, i.e., supervisory approval, as set forth in paragraph 4.2, based upon the public interest and the efficiency of Government operations.

Further, it provides specific remedies for any employee who requests to be excluded from his or her unit's Compressed Work Schedule on the basis of personal hardship. Such a request must be made by the employee in writing to his or her Associate Director or equivalent Agency official (see paragraph 4.9.). The Agency's determination will be made no later than ten days after the day of the written request.

In addition to the protections provided in this law, an employee will continue to retain his or her right to initiate action in court for alleged violations of the Fair Labor Standards Act.

## **4.4 The Public Interest**

The Act also protects the public interest and the efficiency of Government operations by ensuring that the U.S. Office of Personnel Management (OPM) or the head of the Agency may terminate an alternative work schedule if it disrupts Agency operation or increases costs. The Act provides that Agency heads may restrict the employees' choice of arrival and departure times and the use of credit hours and may exclude any employee or group of employees from an established AWS schedule where that schedule hampers the efficient operation of the Agency.

## **4.5 Employee Responsibility**

AWS gives each employee a greater measure of personal control over the work environment. With this freedom comes the responsibility to account for one's time and attendance accurately and completely. In arranging schedules, employees need to be mindful of the needs of others as well as their own. A cooperative, considerate approach, with compromise and accommodation where necessary, will result in the most practical schedule.

## **4.6 Management Responsibility**

AWS requires effective work planning and organization and monitoring the effectiveness of the work unit. Management has the right to return an individual employee or work unit to a traditional fixed work schedule.

### **4.6.1 Peace Corps Operating Hours**

The basic operating hours for the Peace Corps are from 7:00 a.m. to 6:00 p.m., Monday through Friday. At Headquarters and where arrangements can reasonably be made for offices to be accessible, employees may opt to work outside of these hours and days, but justification for such work must be approved by the supervisor, in advance, in order for it to be credited toward the basic 80-hour work requirement.

### **4.6.2 Public Service Band**

The Public Service Band is to ensure that office coverage is sufficient to meet the needs of the general public, Federal and other agencies, and other offices and staff within the Peace Corps. The Peace Corps' Public Service Band extends from 8:30 a.m. to 5:00 p.m., Monday through Friday. Offices and work units may be excepted from observing the Public Service Band only if they can clearly demonstrate to office heads that their function does not require their availability to the public, other agencies, or other Peace Corps staff during the Public Service Band.

## **4.7 Time Accounting**

It is important that accurate and certifiable time and attendance records be kept. Employees must be present for duty unless authorized to be absent and are responsible for working their full tour of duty as part of their agreement with the Peace Corps. On all workdays when employees work in excess of six hours, they are required to take an unpaid half-hour lunch break. Supervisors are responsible for accounting accurately for the time and attendance of employees under their supervision. Government regulations require maintenance of a record for accounting and audit purposes (See MS 631 *Direct Hire Time and Attendance*).

## **4.8 Travel Status**

When employees are engaged in temporary duty travel, their administrative workweek shall be 8:30 a.m. - 5:00 p.m. (includes a 1-hour lunch) 5 days a week unless modified by the supervisor. Time spent traveling outside of these hours is compensable only under certain conditions (*see*

MS 625 *Premium Pay and Compensatory Time*). Travel may necessitate changing a work schedule for one or more pay periods. Employees engaged in work while in travel status are subject to the onsite administrative workweek. Therefore, those hours specified as the work week at the worksite shall be considered the administrative workweek for traveling employees unless otherwise specified by their supervisor. The earning of credit hours while in travel status is governed by section 4.9.1.1(c) of this Manual Section.

## 4.9 Optional Schedules

Each work unit shall select its own work schedule from among the Maxiflex schedule and three fixed, compressed schedules. All employees in a given work unit are required to adopt the schedule selected by that unit. However, for the purposes of calculating leave and premium pay, the Agency will operate on a five-day, 40-hour week.

The following schedules are approved for use at the Peace Corps:

### 4.9.1 Maxiflex

The flexible schedule authorized in the Peace Corps is the Maxiflex Schedule, which affords employees a degree of flexibility in choosing work schedules.

#### 4.9.1.1 Maxiflex Work Schedule Requirements

- (a) **Basic Work Requirement** – Full-time employees have an 80-hour biweekly basic work requirement, not to exceed 13 hours/20 minutes on any day. The basic work requirement for part-time employees, that is, employees with a regularly assigned basic work requirement of from 32 to 64 hours per pay period, is specified at the time of their appointments.
- (b) **Credit Hours** – Credit hours are those hours which an employee under the Maxiflex schedule elects to work in excess of his or her basic work requirement, i.e., 80 hours per pay period for full-time employees, and which may be used to vary the length of a succeeding workweek or workday.

If management orders an employee in advance to work in excess of the basic work requirement, such hours are not credit hours and must be compensated as overtime, or compensatory time if applicable. An employee's intent to earn credit hours requires reasonable notification of the supervisor; an employee's intent to use credit hours requires the supervisor's approval as in the case of annual leave. A full-time employee may carry over no more than twenty-four (24) credit hours into a succeeding pay period; a part-time employee may carry over no more than one-fourth of his or her biweekly basic work requirement, not to exceed 24 hours.

When an employee has worked more than his or her basic work requirement before the end of the pay period, any time off during that pay period must be discussed with and approved in advance by the supervisor. Credit hours cannot be used before they are earned, except within the same pay period.

#### 4.9.1.2 Premium Pay

- (a) **Overtime Pay** – For employees on the Maxiflex schedule, overtime hours are all hours in excess of eight hours in a day, 40 hours in a week, or 80 hours in a biweekly pay period which are officially ordered in advance by the supervisor. Employees shall be compensated for such overtime hours in accordance with the provisions of applicable law (*See MS 625 Premium Pay and Compensatory Time*).

If a supervisor orders an employee to work hours that are in excess of the number of hours which that employee had scheduled to work on that day, but which are not in excess of eight hours in that day or 40 hours in that week, the Peace Corps will allow that employee to work a number of hours on a subsequent workday equal to those ordered, which would be in excess of his or her basic work requirement, and which would be compensated as overtime hours.

- (b) **Compensatory Time Off** – An employee may elect compensatory time off in lieu of overtime pay, for regularly scheduled overtime work, as well as for occasional overtime work, ordered in advance (*See MS 625 Premium Pay and Compensatory Time*).
- (c) **Credit for Holiday Work** – A full-time employee who elects to work on a holiday, and who receives prior approval of his or her supervisor to do so, is credited with eight hours (holiday pay) plus the number of hours worked; a part-time employee is credited with the number of hours he or she is scheduled, plus the hours he or she elects to work.

#### 4.9.1.3 Absence and Leave during Maxiflex

- (a) **Holiday** – Please see section 5.4 Holiday Pay of MS 625 *Premium Pay and Compensatory Time*.
- (b) **Leave** – Absence during core time, without prior approval of the employee's supervisor, and failure of an employee to complete his or her basic work requirement, must be charged to the appropriate leave category unless the employee is authorized compensatory time off or has been granted an excused absence (*see MS 635 Staff Absence and Leave*). Such leave must be recorded in whole hours. Because the Agency is operating on a five-day, 40- hour week, sick leave may be used for only eight hours on any given day.
- (c) **Excused Absence/Administrative Leave** – Under certain conditions, as detailed in MS 635, absences may be administratively authorized without charge to leave or loss of pay. The most frequent circumstance under which excused absence is authorized is hazardous weather. The guiding principles for authorizing excused absence under Peace Corps' flexitime program are the necessity for the absence and the equitable treatment of employees.

- (1) **Hazardous Weather** – The following conditions apply to attendance during hazardous weather:

- (i) **Late Arrival.** The amount of excused absence granted for late arrivals caused by hazardous weather conditions will be determined on an individual basis depending on conditions prevailing between the employee's home and the workplace. Upon specific authority of the Peace Corps Director, supervisors may excuse reasonable absences in such cases.
- (ii) **Early Dismissal.** When hazardous weather results in the early dismissal of employees, the period of excused absence will not exceed the difference between the authorized time of early dismissal and the end of the Public Service Band which is 5:00 p.m.
- (iii) **Emergency Conditions.** When a decision is made to evacuate the workplace due to an emergency condition such as fire, flood, earthquake, etc., all employees will be excused immediately.

## 4.9.2 Compressed Work Schedules

Rather than work on a Maxiflex schedule, a work unit may elect one of three fixed, compressed schedules: a four-day workweek, a three-day workweek, or the 5-4/9 pay period plan. Whichever compressed schedule is elected, all employees must abide by it unless exempted by an office head, as in paragraph 4.1 of this Manual Section.

### 4.9.2.1 Absence and Leave - Compressed Work Schedules

- (a) **Holiday** – Full-time employees, whether or not they are scheduled to work on a day officially designated as a holiday, are entitled to pay with respect to that day for the number of hours scheduled for that day. For full-time employees, this would be either ten hours, 13 hours/20 minutes, or nine hours (or eight hours if the day is the one day of the pay period scheduled for eight hours), depending on which compressed schedule the employees work.

When a full-time employee has more than two consecutive non-workdays off and a holiday falls on one of these non-workdays, the following rules shall apply in designating the workday as the "in lieu of" holiday. When the holiday falls on the employee's first or second non-workday, the preceding workday shall be designated as the "in lieu of" holiday. When the holiday falls on the third or fourth non-workday, the next workday shall be designated as the "in lieu of" holiday.

A part-time employee is entitled to holiday pay for the number of hours that he or she was scheduled to work on the day on which a holiday falls. Part-time employees are not entitled to an "in lieu of" holiday if a holiday falls on a non-workday.

- (b) **Leave** – Time off during an employee's basic work requirement must be charged to the appropriate leave category unless the employee is authorized compensatory time off or an excused absence. An employee who takes one full day of leave will be charged for the number of hours scheduled for that day. For a full-time employee, this would be either ten hours, 13 hours/20 minutes, or nine hours (or eight if it is the one day of the pay

period scheduled for eight hours), depending on which compressed schedule the employee works. A part-time employee would be charged the number of hours in his or her fixed schedule for that day.

The statutory provisions of Title 5, U.S. Code, relating to the earning of or entitlement to sick, annual, military, and funeral leave, and in some cases creditable service for retirement purposes, have as a frame of reference the eight-hour day, with the result that the provisions are stated in terms of "days." Such references to a day or workday (or to multiples or parts thereof) shall be considered to be references to eight hours (or the respective multiples or parts thereof). It is not intended to either decrease or increase any employee's existing entitlement to leave or creditable service for retirement purposes. Part-time employees whose alternative work schedules have biweekly rather than daily or weekly work requirements are entitled to accrue leave even though they may not be scheduled to work in one of the weeks of a pay period.

#### **4.9.2.2 Premium Pay - Compressed Work Schedules**

- (a) **Overtime Pay** – Work which has been ordered by a supervisor in advance to be performed outside of an employee's compressed work schedule is overtime work. Employees are entitled to overtime pay for overtime work in accordance with applicable provisions of law (*See MS 625 Premium Pay and Compensatory Time*).
- (b) **Compensatory Time Off** – An employee may elect compensatory time off in lieu of overtime pay, for irregular or occasional overtime work ordered in advance (*See MS 625 Premium Pay and Compensatory Time*).
- (c) **Premium Pay for Holiday Work** – An employee on a compressed schedule who performs work on a holiday is entitled to basic pay, plus premium pay at a rate equal to basic pay, for the work that is not in excess of the employee's compressed work schedule for that day. For hours worked on holidays in excess of the compressed work schedule, a full-time employee is entitled to overtime pay under applicable provisions of law, and a part-time employee is entitled to straight time pay or overtime pay, depending on whether the excess hours are non-overtime hours or overtime hours.

Approval for work on a holiday must be obtained in advance from the employee's supervisor in order for the employee to be entitled to premium pay.

#### **4.9.2.3 Four-Day Workweek**

Full-time employees have a ten-hour daily, 40-hour weekly, basic work requirement. Work units establish a fixed tour of duty within the five-day workweek, Monday through Friday, consisting of four ten-hour days for full-time employees or four days of shorter duration for part-time employees.

#### **4.9.2.4 Three-Day Workweek**

Full-time employees have a 13-hour/20 minute daily basic work requirement and a 40-hour weekly basic work requirement. Work units establish a fixed tour of duty within the five-day workweek, Monday through Friday, consisting of three 13-hour and 20-minute days for full-time employees or three days of shorter duration for part-time employees.

#### **4.9.2.5 The 5-4/9 Pay Period**

Full-time employees have a nine-hour daily work requirement (with the exception of one eight-hour day per pay period) and an 80 hour biweekly basic work requirement. Work units establish a fixed tour of duty within the five-day workweek, Monday through Friday, consisting of nine hours per day for eight days and eight hours for one day, allowing one fixed day off within each pay period.

#### **4.10 Delegations of Authority**

Associate Directors and the Directors of Staff Offices, with respect to their offices, are delegated the authority to arbitrate disagreements arising from the implementation and exercise of AWS and to exclude an employee or group of employees from the AWS program and assign them a traditional fixed schedule.

### **5.0 Hours of Work - Overseas Application**

The Country Director establishes the hours of duty for the overseas post taking into account the hours of duty of the U.S. embassy and other operational factors.

#### **5.1 Time Accounting and Travel Status**

The provisions in section 4.6 and 4.7 apply overseas.

#### **5.2 Maxiflex or Compressed Work Schedule Requirements**

- (a) The Country Director must establish either a Maxiflex Work Schedule or a Compressed Work Schedule unless the Country Director determines that the efficient operation of the Post requires that any, some, or all employees work the Post's traditional fixed work schedule.
- (b) A Country Director establishing a Maxiflex Work Schedule or a Compressed Work Schedule is authorized to modify the Work Schedules provisions to take into account the hours of duty of the U.S. embassy and other operational factors.

### **6.0 Nursing Mothers Policy**

#### **6.1 Break Time**

Peace Corps will provide a reasonable amount of break time or administrative leave for employees to express milk and/or breastfeed, as frequently as needed by the nursing mother, for up to two years following the birth of the employee's child.

## **6.2 Place for Expressing Milk**

Peace Corps will provide a room, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by employees to express breast milk and/or breastfeed.

## **6.3 Eligibility**

US Direct Hire employees are eligible for this benefit for up to two years following the birth of their child. Contractor employees working at the Peace Corps may use the Peace Corps' room described in paragraph 6.2 for the purpose of expressing breast milk and/or breastfeeding with the prior approval of their supervisor and the permission of the Associate Director for Management.

## **6.4 Responsibilities**

### **6.4.1 Associate Directors – A Delegates**

Associate Directors or their designees are responsible for reviewing and granting, as appropriate, a request from an eligible employee for a reasonable amount of break time/administrative leave for the purpose of expressing breast milk and/or breastfeeding as frequently as needed by the nursing mother.

### **6.4.2 Office of Administrative Services**

The Office of Administrative Services is responsible for ensuring that an adequate room, meeting the criteria in section 6.2, is available for nursing mothers to use to express milk and/or breastfeed.

### **6.4.3 Employees**

Employees are responsible for requesting approval in writing from their Associate Director for administrative leave for the purpose of expressing breast milk and/or breast-feeding during duty hours.

## **7.0 Procedures**

Procedures implementing this Manual Section shall be developed by HR and must be approved by the Human Resource Council.

## **8.0 Effective Date**

The effective date of this Manual Section is the date of issuance.