

**Office of the State Public Defender  
Administrative Policies  
Human Resources**

<b>Subject:</b> <b>Alternate Work Schedules</b>	<b>Policy No.:</b> <b>511</b>
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**1. POLICY**

It is the policy of the Office of the State Public Defender (OPD) that alternate work schedules may be implemented provided that they do not interfere with mandatory office hours or the business goals of the agency.

This policy applies to employees in all OPD offices. Provisions of this policy apply only to alternate work schedules requested by the employee, and not to work schedules established by management. Nothing in this policy limits the authority of the agency to establish or change work schedules as necessary for the successful operation of the Office of the State Public Defender (OPD).

**2. OBJECTIVE**

OPD recognizes that alternate work schedules can sometimes benefit both employees and the agency. Management may extend the privilege of alternate work schedules at the request of employees in accordance with the guidelines, procedures and standards detailed in this policy.

Alternate work schedules may be approved only when the needs of the individual office can be met. Before approving or denying employee requests for alternate work schedules, management must ensure that such schedules:

- a. Provide for adequate staff coverage of the office;
- b. Ensure that client needs will be met;
- c. Ensure that court schedules will be adhered to;
- d. Do not impede the overall productivity of the individual office.

Alternate work schedules may not be granted where they would result in an office not maintaining adequate staffing coverage during the statutorily required office hours of 8:00 a.m. to 5:00 p.m. on business days (Sec. 2-16-117, MCA).

**3. DEFINITIONS**

- 3.1. CORE WORK HOURS:** Core work hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday. Other work schedules may be established by Management to effectively operate programs and meet objectives.
- 3.2. ALTERNATE WORK SCHEDULE:** A schedule that allows an employee's workday to start and/or end at an earlier or later time than the core work hours.
- 3.3. MANAGEMENT:** For the purposes of this policy, "management" refers specifically to a Regional Deputy Public Defender, Training Coordinator, Contract Manager, Administrative Director, the Chief Appellate Defender or the Conflict Coordinator. It does *not* include Managing Attorneys or Office Managers.

## 4. PROCEDURES

### 4.1. HOURS

- 4.1.1 Because Montana law requires all state offices to be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for state holidays, all offices must provide adequate staff coverage during those hours.
- 4.1.2 A non-paid break period (meal break) may be a minimum of half an hour and a maximum of two hours long. All employees are encouraged to take at least a half-hour non-paid break period. Requests to skip a meal break must be approved by management.
- 4.1.3 An employee's request regarding the time at which to take a non-paid break period must be approved by management. Management must also approve exceptions.
- 4.1.4 Employees may, with the approval of their immediate supervisor, make temporary deviations from their established work schedule provided hours worked comply with this policy.
- 4.1.5 Alternate work hours or non-paid break periods may occasionally be changed beyond the limits of this policy to accommodate unusual circumstances such as external training course schedule requirements. Approval by management is required.
- 4.1.6 Employees may take one paid 15-minute duty-free break for every four hours worked, as long as this break does not interfere with the successful operation of the office.
- 4.1.7 Employees may not delay the beginning of their workday, extend their non-paid break period or terminate the end of their workday early to compensate for the paid duty-free breaks not taken.
- 4.1.8 No overtime or compensatory time is earned as a result of working an alternate work schedule unless it results in the employee working more than 40 hours in a workweek.
- 4.1.9 Holiday benefits will be paid according to the State Holiday Policy MOM 3-0325. No employee may receive more than 8 hours of pay for the holiday benefit. Employees who are scheduled **by management** to work more than an 8 hour workday may be required to take appropriate leave or, with management approval, make up time during the same workweek. If an employee is required to work on a holiday the employee will receive the holiday benefit as a banked benefit to use in the future in addition to reimbursement for the actual hours worked.

### 4.2. APPLICATION PROCEDURE

- 4.2.1 Any employee working in an office where alternate work schedules have been implemented may request an alternate schedule from management. The request should specify the hours of work desired, the desired time for a non-paid break period (meal break) the proposed effective date and the approximate desired duration of the schedule.
- 4.2.2 Employees must submit requests for alternate work schedules in writing to management.
- 4.2.3 Any Program 1 (trial division) employee who has been denied a requested alternate work schedule may request a review by the Chief Public Defender. The decision of the Chief Public Defender, Chief Appellate Defender or Conflict Coordinator shall be final. Denial of an alternate work schedule is not grievable under the State Grievance Procedure, MOM 3-0125.

- 4.2.4 The employee shall be notified in writing of approval or denial of the request for an alternate work schedule.
- 4.2.5 Each employee will be responsible for maintaining and posting a schedule of the employee's alternative work schedule hours and making sure that there is a current version on file with the front desk, and management.
- 4.2.6 Employees beginning or ending their work day before or after the core hours of 8:00 a.m. and 5:00 p.m. Monday through Friday are required to notify office staff of their alternate office hours. Employees using voice mail or electronic (Outlook) calendars will reflect the alternate work schedule as appropriate.

#### **4.3. CRITERIA FOR APPROVAL**

- 4.3.1 Management may approve alternate work schedules on a trial basis to determine if the needs of the agency are met.
- 4.3.2 When establishing alternate work schedules, management must assure coverage of essential functions during the core work hours or at such other times as the accommodation of the public or the proper transaction of business requires.
- 4.3.3 If two or more employees desire the same alternate work schedule hours, management will review the request and will resolve the issue in the best interest of the mandatory office hours and or the business goals of the agency. Rotating hours may be allowed to resolve conflicts if they do not place an undue burden on office operations.
- 4.3.4 Approval of alternate work schedules shall be made with regard to the best interests of the state as well as the desires of the requesting employee. Where the interests of the state require the presence of the employee during core business hours, the interests of the state override the employee's interest.

#### **4.4. CHANGING ALTERNATE WORK SCHEDULES**

- 4.4.1 Temporary deviations from an employee's established alternate work schedule need only verbal approval as specified in section 4.1.4 of this policy. Employees are required to notify office staff of their alternate office hours. Employees using voice mail or electronic (Outlook) calendars will reflect the alternate work schedule as appropriate.
- 4.4.2 Employees wishing to change established alternate work schedules must notify management at least 10 days before the proposed date of change. Approval or denial of the request must be made in writing no later than five days from the date of the request.
- 4.4.3 Management may change any employee's working hours as deemed necessary for the successful operation of OPD programs, or if they inhibit maximum efficiency of office operations. An employee's hours may not change without 10 working days notice. If the employee agrees, the change in hours may take place immediately.
- 4.4.4 The Chief Public Defender, Chief Appellate Defender or Conflict Coordinator may withdraw approval for an alternate work schedule.

#### **4.5. SUPERVISION**

- 4.5.1 Management in each office is to maintain a staffing schedule for their area of responsibility. It should be reviewed, at a minimum, when

changes are requested to ensure both adequate coverage and supervision.

4.5.2 Management is responsible for ensuring that the office's productivity is satisfactory and that established alternate work schedules are implemented and followed according to this policy.

4.5.3 In the event that alternate work schedules have an impact on the individual's ability to meet performance standards or have an impact on overall agency operations, management will use standard disciplinary procedures on an individual basis.

## 5. CROSS REFERENCE GUIDE

The following laws, rules or policies may contain provisions that might modify a decision relating to Alternate Work Schedules. The list should not be considered exhaustive—other policies may apply.

### State Laws

2-16-117, MCA Mandatory Office Hours

### State Personnel Policies

MOM 3-0210 Overtime and Nonexempt Compensatory Time

MOM 3-0211 Exempt Compensatory Time

MOM 3-0305 Annual Leave

MOM 3-0310 Sick Leave

MOM 3-0125 Grievances

MOM 3-0320 Disaster and Emergency Leave

MOM 3-0325 Holidays

## 6. CLOSING

This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.

Questions concerning this policy can be directed to the Human Resource Officer at:

Office of the State Public Defender  
Administrative Service Division  
44 West Park  
Butte, MT 59701  
Phone 406-496-6080