

## **Overview of Right to Request Work Schedule Flexibilities**

The Federal Government remains committed to providing workplace flexibilities to eligible Federal employees as appropriate and consistent with agency mission. These flexibilities can lead to improved agency productivity while helping to increase employee engagement and satisfaction. Agencies are reminded that they must not create arbitrary and unnecessary barriers to prevent employees from utilizing these flexibilities. While employees should never fear agency or supervisor retaliation for requesting certain workplace flexibilities, employees must also understand that such requests are still subject to approval and that supervisors must consider both the appropriateness of granting the request, under operative rules, and the impact on agency mission in exercising this discretion.

In particular, employees should always have the right to request, without fear of retaliation or adverse action, the following flexibilities:

- Alternative Work Schedules (e.g., flexible work schedule, compressed work schedule);
- Telework;
- Job Sharing; and
- Part-Time Employment.

### **The Right to Request Work Schedule Flexibilities without Fear of Retaliation**

Federal employees have the right to request certain work schedule flexibilities available to them under law, pursuant to an applicable collective bargaining agreement or under other agency policy, without fear of retaliation or adverse employee action as a consequence of making such a request, and Federal agencies and supervisors should have procedures and policies in place that will facilitate this process.

### **Required Agency Procedures**

One objective of the Presidential memorandum is to make sure agencies have created an open environment that facilitates employees requesting these work schedule flexibilities without fear of retaliation. To that end, the memorandum imposes several procedural requirements on agencies: Subject to the terms of any collective bargaining agreement that applies in a particular case, the procedures that agencies must establish (unless they have already been established) regarding the right to request workplace flexibilities include the following:

- Provide a mechanism for making the request;
- Provide for the supervisor to meet or confer with the requesting employee as appropriate;
- Provide that supervisors consider the request carefully and respond within 20 business days (or any shorter period set by the agency) of the employee's initial request; and

- Remind employees periodically of the flexibilities available to them.

We note that work schedule flexibilities are subject to statutory and agency imposed preconditions for eligibility, which will affect what sort of conferral or response is appropriate under the circumstances. OPM will elaborate, as needed, in subsequent guidance.

### **Employee Education**

As noted above, on a periodic basis, agencies must remind Federal employees of their right to request the workplace flexibilities listed above, with the caveat that requests are subject to supervisory approval and that the supervisor makes such decisions in accordance with the agency's mission-related requirements. Agencies must also remind employees that no retaliation can occur against employees for making a request to use workplace flexibilities. Finally, agencies must educate employees on agency policies concerning requests and denials of workplace flexibilities, including whatever grievance rights apply under law, collective bargaining agreements, or agency policy. Agencies are encouraged to collaborate with employee representatives on effective ways to educate bargaining unit employees regarding these agency policies.

Nothing in this guidance shall be construed to impair or otherwise affect the discretion granted to an employee's supervisor in making a decision on the request for work schedule flexibilities, in accordance with the agency's mission-related requirements.