

ARTICLE 15
Hours of Work

Section 1 Definitions (Effective November 6, 2022)

- A. Alternative Work Schedule (AWS). A schedule other than the standard fixed eight (8) hour tour of duty, Monday through Friday. An AWS includes Flexible Work Schedules (FWS) and Compressed Work Schedules (CWS).
 - B. Basic Work Requirement. The number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise. For full-time employees, the basic work requirement is eighty (80) hours per biweekly pay period.
 - C. Core Hours. That portion of the day during which all employees must be present for work. The core time band is from 9:30 a.m. to 3:00 p.m. for all offices except in the National Hearing Centers/National Case Assistance Centers, where it is 9:30 a.m. to 2:30 p.m. Employees who are participating in the Maxiflex schedule have a core time band from 9:30 a.m. to 1:30 p.m.
 - D. Flexible Time Bands. That portion of the workday during which an employee has the option to select and/or vary starting or quitting times within the limits established in this Article.
 - 1. For all offices except the National Hearing Centers/National Case Assistance Centers, the flexible time bands are:
Morning Flexible Time Band: 6:30 a.m. – 9:30 a.m.
Afternoon Flexible Time Band: 3:00 p.m. – 10:00 p.m.
 - 2. For National Hearing Centers/National Case Assistance Centers and other locations with an OHO approved start time of 6:00 a.m., the flexible time bands are:
Morning Flexible Time Band: 6:00 a.m. – 9:30 a.m.
Afternoon Flexible Time Band: 2:30 p.m. – 10:00 p.m.
- 1. Employees participating in the Maxiflex schedule have a morning flexible band beginning at 5:00 a.m.
 - 2. During the flexible time band in Sections D.1. and D.2. above, employees must obtain prior supervisory approval to work after 6:00 p.m. Supervisory approval will normally be granted, absent bona fide workload or security related concerns that cannot be resolved.

3. The Agency may, in the event of workload or training needs, direct specific arrival and departure times. This notification will be made prior to the end of that employee's tour on the employee's previous workday.
- E. Compressed Work Schedule (CWS). A schedule in which an employee's basic work requirement for each pay period is scheduled for less than ten (10) workdays. A CWS allows an employee to work less than ten (10) days per pay period using a 4/10 or 5/4-9 schedule; however, the start and stop times are fixed.
- F. Flexible Work Schedules (FWS). A schedule including core time and two (2) flexible time bands. A flexible work schedule allows an employee to fulfill the basic eighty (80) hour biweekly work requirement in ten (10) workdays or fewer.
1. Flextime. A flexible work schedule that allows employees to choose their starting time, subject to certain limitations, on a daily basis. Employees under a flextime schedule have specific core hours, specific flexible hours, and have an eight (8) hour daily basic work requirement.
 2. Flexible 5/4-9 Schedule. A schedule in which an employee fulfills the basic work requirement of eighty (80) hours in a biweekly period over a span of nine (9) workdays - five (5) days one (1) week, four (4) days the other. Employees under the flexible 5/4-9 schedule work nine (9) hours daily for four (4) days each week, the remaining day each week alternates from an eight (8) hour day to a day off every other week. The employee may choose their starting time on a daily basis within the morning flexible time band.
 3. Flexible 4/10 Schedule. A schedule in which an employee fulfills the basic work requirement of eighty (80) hours in a biweekly period over a span of eight (8) workdays - four (4) days one (1) week and four (4) the next. Employees under the flexible 4/10 schedule work ten (10) hours daily for four (4) days each week. The remaining day each week is a day off. The employee may choose their time on a daily basis within the morning flexible time band.
 4. Maxiflex Schedule. Maxiflex is a type of flexible work schedule that contains core hours on fewer than ten (10) workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of eighty (80) hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization. It allows employees to complete the eighty (80)-hour work requirement in less than ten (10) workdays each pay period, and to earn credit hours for voluntary work performed in excess of eighty (80) hours.

- G. Credit Hours. Hours in excess of the daily basic work requirement which an employee on a flextime and Maxiflex schedule requests to work, with supervisory approval, within the afternoon flexible time band.
- H. Overtime. Work performed in excess of the basic work requirement that is officially ordered or approved by the Agency. Overtime does not include credit hours.

Section 2 Flexible 5/4-9 and 4/10, Compressed 5/4-9 and 4/10, and Maxiflex Schedules (Effective November 6, 2022)

A. Procedures for Flexible and Compressed 5/4-9 and 4/10 Schedules

1. Employees will have an opportunity to request a flexible or compressed 5/4-9 schedule designating their preferred day off and eight (8) hour workday. Employees will have an opportunity to request a flexible or compressed 4/10 schedule designating their preferred days off.
2. Employees will submit requests to their delegated leave approving official (LAO). The employee's schedule is subject to the approval of the LAO. No more than fifteen (15) percent of support staff employees will be off on the same day without the approval of the LAO. Any conflicts will be resolved by office seniority.
3. In February, employees may request a flexible or compressed 5/4/9 or 4/10 schedule for the period April through September; in August for the period October through March. The LAO will make a decision based on staffing needs and workload considerations within ten (10) workdays following the request period. If a 5/4/9 or 4/10 schedule is denied, employees may adjust their leave requests in accordance with Article 16 of this Agreement.
4. If an employee's requested work schedule is denied, the supervisor will explain the specific reason(s) for the denial to the employee, in writing on the 5/4/9 or 4/10 application.
5. Employee participation in 5/4/9 or 4/10 schedules will not be limited, denied or withdrawn as a form of discipline or retaliation. However, participation may be limited or withdrawn for failure to comply with AWS rules and regulations.
6. Employees may request a permanent or temporary change in their flexible 5/4-9 or 4/10 scheduled day off. The request must be in writing. The LAO will consider staffing and workload needs prior to acting on the request.
7. Employees have the option of going from any 5/4-9 or 4/10 schedule to the regular flextime schedule at the beginning of any pay period. Employees who

wish to change from flextime to a 5/4/9 or 4/10 schedule may request to do so during the periods in A.3. above. However, employees with bona fide good cause may also request participation in a 5/4/9 or 4/10 schedule outside the normal request times. If approved by the LAO, the employees may change to the new schedule at the start of the next appropriate pay period.

8. Employees working a flexible 5/4-9 or 4/10 schedule must arrange their arrival time so that they can complete their nine (9) and one-half (9 ½) hours or ten (10) and one-half (10 ½) hours work schedule before the end of the afternoon flexible band.
9. With supervisory approval, an employee on a CWS may switch their day off to another day within the same week.

B. Procedures for Maxiflex Schedules

1. Participation in Maxiflex is not an employee right or entitlement. The following positions are eligible for participation in the Maxiflex schedule: senior attorney advisors; attorney advisors; paralegal analysts; quality review specialists; and quality review technicians.
2. In February, eligible employees may request a Maxiflex schedule for the period April through September; in August for the period October through March. The LAO will make a decision based on staffing needs and workload considerations within ten (10) workdays following the request period. If a Maxiflex schedule is denied, the employee may adjust their leave requests in accordance with Article 16 of this Agreement.
3. Tour of Duty under a flexible work schedule means the limits within which an employee must complete their basic work requirement. The tour of duty is comprised of both core hours and flexible hours. The tour of duty for employees on Maxiflex is Monday through Friday, and may begin as early as 5:00 a.m. and end as late as 10:00 p.m. with supervisory approval. As discussed in Section 1.D.4., employees must obtain prior supervisory approval to work after 6:00 p.m. In addition, employees approved to work Maxiflex must obtain prior supervisory approval to work before 6:30 a.m. for hearing offices and 6:00 a.m. for HQ components. Supervisory approval will normally be granted, absent bona fide workload or security related concerns that cannot be resolved.
 - a. Employees may account for up to a maximum of twelve (12) non-overtime hours in a single workday. These can be regular work hours, approved leave, accrued credit hours earned, or a combination of these.
 - b. Employees may not work regular work hours on Saturday or Sunday.

- c. Employees may work no less than twenty (20) and no more than sixty (60) hours in a regular work week.
4. Split Schedule, similar to flexing in and out under a flexible schedule, is a flexibility available under a Maxiflex work schedule to start and stop one's workday up to three (3) times within a day. If an employee splits their schedule, a meal period must be taken and accounted for during that time.
5. Core Hours are the designated hours and days during which an employee must be present for work. Core hours may be accounted for through regular work hours, approved leave, or accrued credit hours used. The core hours for employees on Maxiflex are 9:30 a.m. to 1:30 p.m. Core hours do not apply on employee's non-workdays.
6. Credit Hours are those hours within the Maxiflex schedule which are in excess of an employee's basic work requirement of eighty (80) hours within a pay period and which the employee voluntarily elects to work, with supervisory approval, so as to vary the length of a subsequent workday, workweek, or pay period. Credit hours must be earned within the Maxiflex tour of duty and the same limitations of Article 15, Section 4 apply here.
7. Advance Work Scheduling
 - a. All employees on Maxiflex are subject to an advance scheduling requirement each pay period. Since Maxiflex allows employees to vary their work hours during flexible times each pay period, employees must submit a proposed work schedule to their supervisors in advance of each pay period. Request must ordinarily be submitted by Thursday of the preceding biweekly pay period. The Parties acknowledge that management may waive this requirement to account for unforeseen circumstances, which should ordinarily be infrequent. Nothing in this paragraph is intended to modify the established procedures for requesting leave.
 - b. The proposed work schedule must indicate the number of hours and timeframes the employee plans to work on each day of the upcoming pay period. To the extent possible, the schedule must also include any leave planned for use and any credit hours that the employee plans to accrue and/or use. Advance scheduling of the pay period minimizes potential problems in determining an employee's entitlements to pay and leave and gives the supervisor notice of the employee's availability so that the supervisor can plan and assign work. Once submitted, an employee may adjust the arrival and/or departure times of the proposed work schedule by a maximum of one (1) hour (provided that it does not interfere with the

established core hours or the tour of duty) without additional documentation or prior supervisory notification. Adjustments of more than one (1) hour to the arrival and/or departure times of the approved work schedule require prior supervisory notification. The actual work schedule may vary from the employee's proposed work schedule.

- c. The proposed work schedule of a full or part-time employee must include a thirty (30) minute unpaid lunch period each workday when the employee is scheduled to work six (6) or more hours. An employee may not skip the lunch period or work during the lunch period in order to shorten the length of a workday.
 - d. If the supervisor objects to all or part of a proposed work schedule, the supervisor should state the reason(s) for disapproval in writing and offer some alternatives, if available.
 - e. Regardless of the particular hours that an employee proposes or actually works, at the end of the pay period, all full-time employees must meet the eighty (80) hour biweekly work requirement (or the prorated amount for part-time employees). There is no mandatory daily or weekly work requirement. For example, employees are not required to meet a daily work requirement of eight (8) hours or a weekly work requirement of forty (40) hours.
8. The Agency may modify, suspend, or terminate the employee's participation in Maxiflex when there is a documented misconduct or performance issue within the last twelve (12) months, when the employee does not comply with the provisions provided in this Article, or when it is necessary to meet the organization's or work unit's bona fide operating needs. Employee participation in Maxiflex will not be limited, denied or withdrawn as a form of discipline or retaliation.

C. Suspension of Flexible Work Schedules

- 1. Occasions may arise when an AWS must be suspended as a result of workload, training, or bona fide operational needs. The Agency shall make every reasonable effort to avoid suspension of an employee's participation in these schedules and to provide notice as early as practicable to the NTEU Chapter President and the impacted employees, before suspending an AWS. If any of these schedules are suspended, affected employees will be allowed to earn and use credit hours in accordance with credit hour rules during the suspension period.
- 2. Employees who are scheduled to attend out-of-office training may have to revert to the working hours in effect at the training site. The employee's AWS may also be

suspended.

3. If an employee's AWS is suspended, it will be restored the next pay period after there is no longer a need for the suspension.

D. Employees working an AWS may be required to share space/hotel in accordance with the space sharing/hoteling procedures outlined in Article 17.

Section 3 Flex in/out

Employees, with prior supervisory approval, may flex-in and flex-out during their work shift. The employee must complete their normal tour of duty by the end of the afternoon flexible time band or request leave. Employees will sign out on the Agency designated time and attendance system when they flex-out, and sign in the Agency designated time and attendance system when they flex-in.

Section 4 Credit Hours (Effective November 6, 2022)

A. General

1. Employees on a flextime or Maxiflex schedule, may earn credit hours in accordance with the provisions set forth below. Employees who participate in a CWS or flexible 5/4-9 or 4/10 schedule may not earn credit hours.
2. Credit hours earned and accumulated prior to entry into a CWS or flexible 5/4/9 or 4/10 schedule may be used (consistent with the provisions contained herein for use of credit hours) by any employee regardless of their work schedule until all such accumulated credit hours are expended.

B. Procedures

1. Employees can earn up to three (3) credit hours on regularly scheduled workdays.
2. Employees may earn credit hours as long as appropriate work is available (as determined by management) and the working of credit hours is approved in advance. Requests to earn credit hours shall not be denied arbitrarily.
3. Employees may earn no more than twenty (20) credit hours per pay period.
4. Credit hours are to be worked in increments of one-quarter (1/4) hour.

5. The maximum number of credit hours an employee may carry over from one (1) pay period to the next is twenty-four (24). An employee may accumulate over twenty-four (24) credit hours, but may not carry over any hours in excess of twenty-four (24).
6. Normally, the employee will complete a Request to Work Credit Hours in the Agency designated time and attendance system, on or prior to the workday preceding the workday the hours are to be worked, but normally no earlier than a week in advance. However, nothing precludes same day requests to earn credit hours. Requests will be submitted to the LAO. The request will be approved or denied timely.
7. Use of earned credit hours shall be requested by submitting a request in the Agency designated time and attendance system.
8. Credit hours may be used alone or in combination with annual leave, sick leave, when appropriate, or compensatory time.
9. Accrued credit hours may be used by an employee in the same manner as annual leave. The same criteria used to determine whether an employee should be granted annual leave should be applied to requests for use of credit hours.
10. Credit hours may only be worked after completion of an employee's basic work requirement.
11. Employees on an Opportunity to Perform Successfully (OPS) plan are not eligible to earn credit hours.

C. Credit Hours for Part-Time Employees

1. A part-time employee can carry over credit hours equal to a maximum of one-fourth (1/4) of the employee's tour of duty.
2. Part-time employees may work up to 3 credit hours on their non-tour day(s).

D. When Saturday overtime is offered in a unit or office, management may offer up to eight (8) credit hours on that day for those employees who work in that unit or office.

Section 5 Timekeeping Procedures

All employees will be expected to complete time and attendance activities in accordance with Agency policies and practices. If the Agency changes its time and

attendance policy or practices, it will provide notice and, upon request, bargain with NTEU to the extent required by law.

Section 6 Overtime (Effective November 6, 2022)

- A. Except for employees on a Flexible 5/4-9 Schedule, Flexible 4/10 Schedule, Compressed Schedule or Maxiflex Schedule, or as otherwise provided by law and applicable regulations, the time spent by employees performing official duties of the Agency in excess of eight (8) hours a day or forty (40) hours per week, if not counted as credit hours or compensatory time, shall be considered overtime. It is understood that employees may not work overtime without advance written approval of the Agency.
- B. Distribution of Overtime
1. When overtime is required, the supervisor will first seek qualified volunteers from within the supervisor's organizational unit. Overtime will be distributed as equitably as possible to employees who volunteer for overtime.
 2. Consistent with management's right to assign work, management will, after consideration of bona fide job-related qualifications, determine who will work overtime. The Agency will not normally approve overtime on a day when the employee has used leave during the morning flexible band.
 3. The Agency retains the right to approve and assign all overtime work, and, if necessary, order employees to perform such. When circumstances permit, the Agency will notify an employee at least two (2) workdays in advance of making overtime assignments. It is understood that in certain situations operational needs may prevent a two (2) workday notice. The Union recognizes the Agency's position that overtime is a condition of employment under law and regulation, and, further, that the refusal by an employee to perform overtime assignments may result in disciplinary action, or such other actions as deemed appropriate by the Agency consistent with law, regulations, government wide rules, and Agency rules in effect at the effective date of this Agreement.
 4. If the method described in Section B.1. above does not provide sufficient volunteers, the required overtime will be distributed equitably among qualified employees. If an employee assigned overtime pursuant to this Section of this Article does not wish to work such overtime, the employee may seek another qualified employee familiar with the work to be performed, who will volunteer in the originally assigned employee's place. The originally assigned employee will promptly notify the supervisor of the name of such volunteer, and the supervisor will

release the originally assigned employee from the overtime assignment if such a volunteer is available.

5. Management has determined that involuntary overtime assignments will be distributed equitably. Employees involuntarily assigned may be released for good cause shown.
6. Employees on an OPS plan are not eligible for overtime.
7. Requiring an employee to work overtime or the arbitrary denial of overtime will not be used in lieu of disciplinary or adverse actions.

Section 7 Holidays (Effective November 6, 2022)

- A. Where the Agency requires the services of employees on a designated federal holiday, the Agency will seek to fill its needs first through volunteers whose job performance is satisfactory. Where there are more than sufficient qualified volunteers, the Agency will fill its needs, when appropriate, from the most senior volunteers. When the Agency is unable to fill its needs through volunteers, it will assign work in a fair and equitable manner to those employees whose current job performance is satisfactory.
- B. Where the Agency is unable to fill its needs through volunteers, it will, where appropriate, involuntarily assign the work to the least senior employees. Those employees involuntarily assigned to work on a holiday will be excused where they can find qualified replacements. Furthermore, involuntarily assigned employees will be excused where they provide significant hardship reasons.
- C. To minimize the adverse impact of assigning employees to work on designated federal holidays, the Agency will attempt to provide seven (7) calendar days' notice to all employees that holiday work will be required.
- D. If a holiday falls on a regular workday, that day is the employee's holiday. If a holiday falls on any non-workday other than Sunday, the day of the in-lieu-of holiday is the preceding workday; e.g., if a holiday falls on Monday and if Monday is a non-workday for the employee under the AWS, the in-lieu-of holiday is Friday. If a holiday falls on Sunday, the next workday is the in-lieu-of holiday; e.g., if a holiday falls on Sunday and if Monday is a non-workday for the employee under the AWS, the in-lieu-of holiday is Tuesday.
- E. Pursuant to OPM regulation, for employees working a flexible 5-4/9 or 4/10 schedule, if the holiday falls on an employee's nine (9) hour day, the employee will be required to use one (1) hour of leave, compensatory time or earned credit to account for the holiday period. If it falls on a ten (10) hour day, the employee will be

required to use two (2) hours of leave, compensatory time or earned credit hours to account for the holiday. Employees working a compressed work schedule will not be required to use leave to account for the holiday period. To avoid charge to leave, compensatory time or earned credit, the employee will be permitted to move the eight (8) hour day to the holiday.

- F. On a holiday, employees under a full-time Maxiflex work schedule are credited with eight (8) holiday hours towards their eighty (80) hour basic work requirement for the pay period, even if they would otherwise work more hours on that day. Part-time employees will be credited with the number of hours that they would have actually worked that day had it not been a holiday.
- G. Assigning employees to work on designated federal holidays will not be used in lieu of disciplinary or adverse actions.

Section 8 Compensatory Time

- A. All employees shall earn compensatory time in accordance with this Article and the appropriate rules and regulations. Employees must use compensatory time within twenty-six (26) pay periods following the pay period in which it was earned.
- B. Use of compensatory time must be approved beforehand by the employee's supervisor. When it is not in the interest of economy and efficiency to grant a particular quantum of time off within twenty-six (26) pay periods, the employee will be paid at the appropriate overtime rate.
- C. Employees may earn compensatory time for hours of work in excess of eighty (80) hours per pay period, provided that the employee has obtained prior written approval from the employee's supervisor. A request in the Agency designated time and attendance system may be used to satisfy the requirement for prior written approval.
- D. All compensatory time will be earned in increments of one-quarter hour.
- E. Denial of a request to earn or use compensatory time will not be used in lieu of disciplinary or adverse actions.

Section 9 Night Pay (Effective November 6, 2022)

When an employee elects to work credit hours, or elects a time of arrival or departure at a time of day when night pay is otherwise authorized, night pay will not be paid. If an employee's tour of duty window includes eight (8) or more hours available for work during daytime hours (i.e., between 6:00 a.m. and 6:00 p.m.), the employee is not

entitled to night pay even though the employee voluntarily elects to work hours for which night pay is normally required (i.e., between 6:00 p.m. and 6:00 a.m.).

Article 15 WebTA Sidebar

1. The Agency will provide new employees with training and reference materials on the use of WebTA. The Agency will answer employee questions regarding the use of WebTA and employees may rely upon the advice of local management when making inputs in WebTA.
2. The use of WebTA does not absolve management from resolving errors involving time and attendance.
3. If the start time recorded by the employee in WebTA is more than five minutes prior to the time shown on the employee's computer at the time of entry, then the employee is required to enter a remark to explain the difference. Management will not normally question an employee's explanation of the difference in times.
4. Employees are not required to enter remarks for differences of five minutes or less and management will not normally question employees regarding differences of five minutes or less.
5. If an employee's time in WebTA is altered by or at the direction of management, management will notify the employee and provide an explanation of the change.
6. Management will allow a reasonable amount of duty time to complete time and attendance activities.
7. The needs of employees with disabilities related to the use of WebTA will be accommodated on a case-by-case basis in accordance with law, government-wide rules and regulations.