

## ALTERNATIVE WORK ARRANGEMENTS

### I. REDUCED WORK SCHEDULES

#### A. Definition

An attorney who is in good standing with the firm [organization] is entitled to be considered for a reduced work schedule. A reduced work schedule is defined as an arrangement in which the attorney receives reduced compensation in return for reduced work hours.

#### B. Requests for Reduced Work

An attorney desiring a reduced work schedule should submit a proposal to the appropriate department chair or supervisor as far in advance of the proposed commencement of the arrangement as possible. The firm [organization] shall respond to the request as soon as possible. Approval will be given if the proposal is practical and can be accommodated by the law firm as a whole and the practice group or groups which will be directly affected.

If the firm [organization] promulgates guidelines governing reduced work schedules, those guidelines will be made public to all attorneys within the firm [organization].

#### C. Effect Upon Content and Quantity of Work Assignments

The firm will expect that an attorney with a reduced work schedule, like all attorneys, will provide quality and timely service to clients. The firm, in turn, will respect and support the decision to work a reduced schedule and make every effort possible to ensure that the quantity of work given the attorney is consistent with the arrangement. In addition, the firm will make reasonable efforts, within the constraints of the attorney's schedule, to provide the type of work assignments, experiences and opportunities that are valuable or necessary to achieve partnership or promotion.

#### D. Effect on Compensation and Benefits

1. Compensation: Compensation for attorneys with reduced work schedules shall be adjusted according to the anticipated hours to be worked by the attorney as compared to the expectation of hours worked by others with full schedules.

Aside from that adjustment, the standards used to determine compensation for attorneys with reduced work schedules shall be the same as those used to determine compensation for attorneys with full schedules. An attorney working on a reduced schedule is eligible for salary increases and bonuses in the same manner as those working a full schedule.

2. Benefits: Full health insurance benefits will be made available, to the extent feasible, to all attorneys, regardless of their schedules. Attorneys with reduced work schedules shall be entitled to the same amount of paid vacation as other attorneys, but that vacation shall be paid at the attorney's reduced salary. Attorneys with reduced work schedules shall, to the extent feasible, be entitled to all other benefits (such as retirement benefits) on an adjusted basis.

#### E. Effect on Partnership or Promotion

Employment on a reduced schedule in and of itself shall not preclude or otherwise affect employment advancement such as eligibility for partnership or promotion. The firm may consider the amount, duration and quality of work experience of an attorney with a reduced schedule in the same way that it would consider the amount, duration and quality of work experience of an attorney with a full schedule in making the partnership or promotion decision.

#### F. Review

The approval of the reduced schedule work plan can be reviewed by the appropriate firm decision-maker at any time, but in any event will be reviewed annually. The attorney with the reduced schedule will participate in the review. The review will ascertain the effectiveness of the plan for the attorney's and the firm's purposes and will determine whether an appropriate percentage of the workload has been chosen.

### II. JOB-SHARING

In practice settings where it is feasible, the firm encourages the sharing of one position between two attorneys. The firm welcomes proposals from attorneys in regard to the sharing of offices, secretaries, salary, workload, benefits and any other applicable arrangements. Such proposals will be seriously considered and accepted where appropriate.

### III. FULL-TIME OPTIONS

#### A. Flextime

"Flextime" is a rearrangement in, but not a reduction of, office hours. It includes "compressed time," in which an attorney handles a full workload in fewer, longer workdays. It also includes arrangements whereby an attorney works, for example, from 7:00 a.m. to 4:00 p.m. instead of from 9:00 a.m. to 6:00 p.m.

#### B. Telecommuting

"Telecommuting" refers to the location where work is performed, rather than the amount of work produced. For example, an attorney who works from home two days per week has a telecommuting arrangement.

#### C. Compensation and Benefits

An attorney using a flextime or telecommuting arrangement is responsible for a full workload and is entitled to full compensation and benefits. If a flextime or telecommuting arrangement is combined with a reduced work schedule, see I.D. above.

#### D. Requests for Flextime or Telecommuting

The firm recognizes that attorneys may need to work unusual hours on occasion. The firm also recognizes that many attorneys work at home on occasion. Firm approval generally is not necessary for these circumstances.

An attorney desiring to work on an unusual schedule on a long-term basis, however, or an attorney desiring to work outside the office on a regular basis during one or more weekdays, should submit a proposal for the schedule to the appropriate department chair or supervisor. Approval will be given if the proposal is practical and can be accommodated by the practice group or groups that will be directly affected.

## COMMENTS

### I. Reason for Policy

It is critically important that the legal profession support and encourage active participation by lawyer parents -- male and female alike -- in nurturing and childcare. Accordingly, employers should grant requests for alternative work arrangements for purposes of childcare whenever possible. Such accommodation of the needs of working parents is plainly in the best interests of the profession because it will enable employers to attract and retain talented lawyers.

In addition to childcare, there are a variety of personal circumstances -- such as an ill spouse or the need to provide elder care -- which may make an alternative work arrangement desirable to an attorney. Therefore, the policy does not set forth any requirement that the reduced work schedule be for childcare purposes. Some employers may want to add a sentence providing that a reduced schedule is not available (without express permission) to attorneys who wish to engage in outside employment.

### 2. Structure of Alternative Work Arrangements

This policy states that an attorney desiring an alternative work schedule should submit a proposal, but it does not state how many hours the attorney should work or how the proposal should be structured. Different practice settings have different needs and different parents have different childcare needs. Numerous creative and flexible work schedules can be developed to meet these varied requirements. Attorneys and firms should feel free to create the most advantageous arrangement possible.

### 3. Length of Service

Some firms may opt to use a minimum employment period before an attorney becomes eligible for an alternative work schedule. Those firms may want to leave it flexible. For example, the policy might provide that "normally" employees with less than one year of service are not eligible for alternative work arrangements. Such phrasing of the policy allows the firm to permit such arrangements for employees with less than one year of service in appropriate circumstances.

Another alternative is to permit lateral hires with at least one (or two) year(s) of legal experience elsewhere to work on a reduced schedule immediately upon joining the firm.

#### 4. Effect on Compensation and Benefits

Compensation should be offered on an appropriate adjusted basis. The policy as drafted does not set forth a formula for calculating compensation. Some firms may choose to offer an adjusted salary. For example, if an attorney works 80% of the hours that a similarly situated full-time attorney works, the attorney on the reduced schedule would receive 80% of the compensation that the full-time attorney would make. Other firms calculate compensation based on a hourly rate. All formulas must compensate the attorney for the same necessary -- but potentially unbillable -- time, such as that spent on administrative matters and continuing legal education.

It is strongly recommended that full medical benefits be offered to attorneys on reduced work schedules, whose need for insurance is no different from that of other attorneys. In the alternative, benefits can be offered on an appropriate adjusted basis. If, for example, in the case of health insurance, the employer pays for 100% of the cost of such insurance for full-time associate attorneys, then the employer should at minimum pay for 80% of the cost of the insurance for any attorney working 80% of fulltime. The attorney would be responsible for the remainder of the cost. If the employer's health insurance carrier will not cover workers on a reduced schedule, the cost to the employee of obtaining private insurance should be partially reimbursed by the employer.

It is also strongly recommended that attorneys with reduced work schedules be permitted the same amount of paid vacation as full-time attorneys, but at their reduced salary.

#### 5. Effect on Status with the Firm and on Future Advancement

Once the decision to allow a reduced work schedule is made, the employer should support and respect the arrangement. Moreover, every effort must be made to avoid making the attorney a "second class citizen" within the firm. To the extent possible, work assignments should be similar in quality and opportunity to those given to full-time lawyers. The attorney who works on a reduced schedule in turn will be expected to produce work of the same quality as attorneys who work full-time. The objective criteria for promotion or partnership should remain the same for all attorneys, regardless of whether or not they have worked on a reduced schedule.

There may be some instances in which long-term employment on a reduced schedule results in a longer period of time in which to accumulate the experience level necessary for partnership or promotion. In those cases, partnership or promotion may be delayed to allow the proper experience level to be achieved. If the firm chooses to develop specific formulas delineating the impact of reduced schedules on the timing of advancement decisions, it is strongly recommended that such guidelines be disclosed to all attorneys. For example, a firm might state that work on a reduced schedule for a cumulative period of two years or less will have no impact upon the timing of partnership, while a reduced schedule for more than two years will delay partnership for one year.

#### 6. Partners with Reduced Work Schedules

Although the policy does not specifically mention partners with reduced work schedules, similar accommodations should be considered for both associates and partners.

## 7. Job-Sharing

Job-sharing means the sharing of one position between two attorneys. The attorneys might share an office, a secretary, a workload, a salary and some benefits. (Both attorneys would have to have health insurance, but arrangements may be possible where the firm's contribution to that insurance would not increase.)

For employers reluctant to support a reduced work schedule because of a fear that a part-time worker requires a full-time overhead expense, the institution of job-sharing, where feasible, would alleviate that concern.

## 8. Telecommuting

Some employers may want to limit the amount of time that an attorney may work outside the office, stating, for example, that an attorney must be in the office for at least three days per week. Some employers may want to require that an employee arrange for childcare during the hours that he or she intends to work at home.

## **CONSIDERATIONS FOR POLICIES CONCERNING ALTERNATIVE WORK SCHEDULES**

Alternative work schedules (AWS) may include almost any arrangement for a reduced work schedule or reduction in office time. Examples are part days, part weeks, job sharing, telecommuting, as well as other flexible time arrangements. In the past law firms have actually had AWS in a variety of situations where lawyers, valuable to the practice, elected to pursue other interests. In some cases the other interests were of potential benefit to the firm, such as political, bar or community activities or teaching. Almost without exception these arrangements were made on an ad hoc basis, between the parties involved, and without general consultation. With the changing makeup of law firms it is important to have policies in place so that people know what they can expect.

When establishing a policy or guideline concerning AWS, certain issues should be considered and decided, while others may be left to be determined by the specific situation and experience gained.

A. The policy should include a statement of the organization's objectives and make clear the need for flexibility on both parts. If appropriate, the policy should state whether a proportionate share of pro bono representation will be required, or firm administrative duties, or other non-billable activity.

B. Since the purpose of the policy is to retain qualified attorneys, the reason for the request is probably not relevant and may include more than childcare or other family responsibilities; provided that the outside activity will not adversely affect the firm or its clients.

C. The policy should state whether a specific period of full-time work will be a prerequisite to an AWS. A set period of prior full-time work may not be practicable in an era when lawyers are joining firms from various areas and at different stages of life..

D. The firm should consider whether there should be different policies for partners and associates or different categories of associates. It would seem that separate policies are needed for partners and shareholders since the AWS may be a transition to retirement or covered by the partnership agreement.

E. The policy should set forth the basis on which compensation will be made and whether any other considerations will affect it such as client development, bar or community activities.

F. The policy should set forth the benefits to be included. Someone familiar with benefits law must review the benefits given to full-time lawyers, such as medical insurance, disability insurance, retirement plan, vacations, bonuses, bar membership, CLE tuition, seminars. Some full benefits may be required by federal or state law or necessary to maintain professional status while others may be reduced proportionally. In some cases the attorney on an AWS may elect to forgo a benefit entirely (spouse has coverage) in exchange for full benefits in another area.

G. The policy should consider the effect on partnership or shareholder prospects.

H. The policy should state that an attorney on an AWS will be entitled to the same professional review as other attorneys, and that the review will include an assessment of how the AWS is progressing and whether any adjustments are in order.