

title] shall not apply to the amendment made by this section.”

## SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

### Editorial Notes

#### AMENDMENTS

1982—Pub. L. 97–221, §2(a)(2), July 23, 1982, 96 Stat. 227, added subchapter II heading as part of enactment of sections 6120 to 6133 of this title.

### § 6120. Purpose

The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

(Added Pub. L. 97–221, §2(a)(2), July 23, 1982, 96 Stat. 227.)

### Executive Documents

#### EXPANDING FAMILY-FRIENDLY WORK ARRANGEMENTS IN EXECUTIVE BRANCH

Memorandum of President of the United States, July 11, 1994, 59 F.R. 36017, provided:

Memorandum for the Heads of Executive Departments and Agencies

In order to recruit and retain a Federal work force that will provide the highest quality of service to the American people, the executive branch must implement flexible work arrangements to create a “family-friendly” workplace. Broad use of flexible work arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction, while decreasing turnover rates and absenteeism. I therefore adopt the National Performance Review’s recommendation that a more family-friendly workplace be created by expanding opportunities for Federal workers to participate in flexible work arrangements, consistent with the mission of the executive branch to serve the public.

The head of each executive department or agency (hereafter collectively “agency” or “agencies”) is hereby directed to establish a program to encourage and support the expansion of flexible family-friendly work arrangements, including: job sharing; career part-time employment; alternative work schedules; telecommuting and satellite work locations. Such a program shall include:

- (1) identifying agency positions that are suitable for flexible work arrangements;
- (2) adopting appropriate policies to increase the opportunities for employees in suitable positions to participate in such flexible work arrangements;
- (3) providing appropriate training and support necessary to implement flexible work arrangements; and
- (4) identifying barriers to implementing this directive and providing recommendations for addressing such barriers to the President’s Management Council.

I direct the Director of the Office of Personnel Management (“OPM”) and the Administrator of General Services (“GSA”) to take all necessary steps to support and encourage the expanded implementation of flexible work arrangements. The OPM and GSA shall work in concert to promptly review and revise regulations that are barriers to such work arrangements and develop legislative proposals, as needed, to achieve the goals of this directive. The OPM and GSA also shall assist agencies, as requested, to implement this directive.

The President’s Management Council, in conjunction with the Office of Management and Budget, shall ensure that any guidance necessary to implement the actions set forth in this directive is provided.

Independent agencies are requested to adhere to this directive to the extent permitted by law.

This directive is for the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this directive in the Federal Register.

WILLIAM J. CLINTON.

#### ENHANCING WORKPLACE FLEXIBILITIES AND WORK-LIFE PROGRAMS

Memorandum of President of the United States, June 23, 2014, 79 F.R. 36625, provided:

Memorandum for the Heads of Executive Departments and Agencies

To attract, empower, and retain a talented and productive workforce in the 21st century, the Federal Government must continue to make progress in enabling employees to balance their responsibilities at work and at home. We should build on our record of leadership through better education and training, expanded availability of workplace flexibilities and work-life programs, as appropriate, and improved tracking of outcomes and accountability. In doing so, we can help ensure that the Federal workforce is engaged and empowered to deliver exceptional and efficient service to the American public while meeting family and other needs at home.

Therefore, it is the policy of the Federal Government to promote a culture in which managers and employees understand the workplace flexibilities and work-life programs available to them and how these measures can improve agency productivity and employee engagement. The Federal Government must also identify and eliminate any arbitrary or unnecessary barriers or limitations to the use of these flexibilities and develop new strategies consistent with statute and agency mission to foster a more balanced workplace.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to support executive departments and agencies (agencies) in their efforts to better utilize existing and develop new workplace flexibilities and work-life programs, I hereby direct as follows:

#### SECTION 1. *Right to Request Work Schedule Flexibilities.*

(a) Agencies shall make Federal employees aware, on a periodic basis, that they have the right to request work schedule flexibilities available to them under law, pursuant to an applicable collective bargaining agreement, or under agency policy, without fear of retaliation or adverse employment action as a consequence of making such a request.

(b) To facilitate conversations about work schedule flexibilities, each agency shall review, and if necessary amend or establish, procedures within 120 days of the date of this memorandum. Subject to collective bargaining agreements, agency procedures must provide:

(i) employees an ability to request work schedule flexibilities, including telework, part-time employment, or job sharing;

(ii) that, upon receipt of such requests, supervisors (or their designees) should meet or confer directly with the requesting employee as appropriate to understand fully the nature and need for the requested flexibility;

(iii) that supervisors must consider the request and supporting information carefully and respond within 20 business days of the initial request, or sooner if required by agency policy; and

(iv) that the agency should remind employees on a periodic basis of the workplace flexibilities available to them.

(c) The Director of the Office of Personnel Management (OPM) shall issue guidance to Chief Human Capital Officers regarding the requirements set forth in this section within 60 days of the date of this memorandum, and shall assist agencies with implementation of this section.

(d) Nothing in this section 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.

**SEC. 2. Expanding Access to Workplace Flexibilities.** Agency heads shall ensure that the following workplace flexibilities are available to the maximum extent practicable, in accordance with the laws and regulations governing these programs and consistent with mission needs:

(a) part-time employment and job sharing, including for temporary periods of time where appropriate;

(b) alternative work schedules, including assurance that core hours are limited only to those hours that are necessary;

(c) break times for nursing mothers and a private space to express milk;

(d) telework;

(e) annual leave and sick leave, including the advancement of leave for employee and family care situations;

(f) sick leave for family care and bereavement;

(g) sick leave to care for a family member with a serious health condition;

(h) sick leave for adoption;

(i) leave pursuant to the Family and Medical Leave Act (FMLA), including allowing employees to take their FMLA leave intermittently as allowed under the Act, including for childbirth, adoption, and foster care;

(j) leave transfer programs, including leave banks;

(k) bone marrow and organ donor leave; and

(l) leave policies related to domestic violence, sexual assault, and stalking situations.

**SEC. 3. Expanding Availability and Encouraging Use of Work-Life Programs.** Agency heads are encouraged to take steps to increase the availability and use of the following work-life programs to the maximum extent practicable:

(a) dependent care programs, including the availability of on-site child care, child care subsidies, emergency child care, and elder care;

(b) Employee Assistance Programs, including counseling, resources, and referrals;

(c) support for nursing mothers, including worksite lactation support programs and resources; and

(d) worksite health and wellness programs, and opportunities to utilize those resources.

**SEC. 4. Helping Agencies Encourage the Use of Workplace Flexibilities and Work-Life Programs.** The Director of OPM (Director) shall work with agencies to:

(a) provide appropriate education and guidance to all agency employees, including managers and supervisors, on the use of workplace flexibilities and work-life programs as strategic tools to assist with the recruitment and retention of employees, with an emphasis on furthering positive outcomes for employees and the agency that result from optimizing their use;

(b) support agencies in their efforts to develop training programs that educate employees, managers, and supervisors about the resources that are available to meet work-life needs;

(c) support agencies in promoting workplace cultures in which workplace flexibilities and work-life programs are a standard part of operating procedures, and identify any arbitrary, unnecessary, or cultural barriers limiting use;

(d) review the Federal Employee Viewpoint Survey data related to supervisor and senior leadership support for work-life, as well as use and satisfaction with alternative work schedules, telework, and work-life programs;

(e) implement the President's Management Agenda efforts in a manner that improves Senior Executive Service focus on creating inclusive work environments where workplace flexibilities and work-life programs are used effectively;

(f) create, annually update, and electronically publish a Workplace Flexibility Index using data from the Federal Employee Viewpoint Survey, reporting required by

the Telework Enhancement Act of 2010, and other appropriate measures of agencies' effective use of workplace flexibilities;

(g) within 120 days from receipt of the agency reports submitted pursuant to section 5 of this memorandum, prepare a report to the President that includes information on agency best practices with regard to the use of workplace flexibilities, any barriers to or limitations that may unnecessarily restrict the use of existing workplace flexibilities and work-life programs, recommendations for addressing or eliminating such barriers or limitations, proposals for future data reporting, and metrics for tracking the use and cost-benefit of work-life programs; and

(h) review, for the purpose of identifying relevant trends related to workplace flexibility issues, the annual report that agencies provide to OPM under the No FEAR Act, which includes the agency's analysis of violations of antidiscrimination and whistleblower laws, an examination of trends, causal analysis, practical knowledge gained through experience, and any actions planned or taken to improve programs within the agency.

**SEC. 5. Agency Review of Workplace Flexibilities and Work-Life Policies and Programs.** Within 120 days of the date of the issuance of guidance pursuant to section 1(c) of this memorandum, each agency shall review its workplace flexibilities and work-life policies and programs to assess whether they are being effectively used to the maximum extent practicable and submit a report to OPM that includes:

(a) any best practices the agency has employed to create a culture and work environment that supports the productive and efficient use of workplace flexibilities and work-life programs; and

(b) any barriers to or limitations that may unnecessarily restrict the use of existing workplace flexibilities and work-life programs and recommendations for addressing or eliminating such barriers or limitations.

**SEC. 6. General Provisions.** (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Director is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## § 6121. Definitions

For purposes of this subchapter—

(1) "agency" means any Executive agency, any military department, the Government Publishing Office, the Library of Congress, the Architect of the Capitol, and the Botanic Garden;

(2) "employee" has the meaning given the term in subsection (a) of section 2105 of this title, except that such term also includes an employee described in subsection (c) of that section;

(3) "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

(4) "credit hours" means any hours, within a flexible schedule established under section 6122