

# California Alternative Workweek Guide and Sample Forms

## Introduction

Many employers use alternative workweek schedules, also known as alternative schedules, four-tens, or compressed workweeks. These arrangements can result in a cost savings for employers, a sustainability benefit, a boost to productivity, higher employee engagement, and improved work-life balance.

To implement an alternative workweek, California employers must comply with very specific wage and hour regulations. An alternative workweek schedule (AWS) means any regularly scheduled workweek requiring an employee to work more than eight hours in a 24-hour period.

The first step is to review your industry's wage order to ensure it allows for employees to waive certain daily overtime in exchange for an AWS. This wage order will also include specifications for adopting an AWS, which vary for some orders. Of note, Wage Order 14 (Agricultural Occupations) and 15 (Household Occupations) do not allow the use of an AWS (see all Industrial Welfare Commission [wage orders](#)).

## Exempt Employees

Typically, there are no limitations on the hours worked by an employee classified as exempt under California state law and the federal Fair Labor Standards Act. Since these employees are exempt from overtime pay, there are no special procedures for beginning such a schedule of an exempt employee or group of exempt employees. The exempt employee can begin working the new schedule at any time. No change in the workweek is required, and it is not necessary to keep any special records. However, you should make sure the employee is properly classified as exempt under federal law and the relevant California Wage Order.

## Alternative Workweek Rules

California law establishes that there will be no daily overtime violation if an employer has properly set up a regularly scheduled alternative workweek. The regularly scheduled alternative workweek must not be for more than 10 hours per day within a 40-hour workweek without the payment of overtime. In addition:

- The alternative workweek may not require more than 10 hours of work per day and no more than 40 hours of work a week without overtime compensation.
- Any overtime between 10 and 12 hours worked above the alternative workweek established in the agreement must be paid at 1.5 times the regular rate of pay. Time worked past 40 hours in the workweek must also be paid at 1.5 times the regular rate. **Note:** Daily and weekly overtime hours need not be double counted. The DLSE has advised that "Once an hour is counted as an overtime hour under some form

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of overtime, it cannot be counted as an hour worked for the purpose of another form of overtime. When an employee works 10 hours in one day, the two daily overtime hours cannot also be counted as hours worked for the purpose of weekly overtime."

- Any overtime beyond 12 hours worked per day and any work over eight hours on those days worked beyond the regularly scheduled number of workdays established by the agreement must be paid at twice the regular rate of pay.
- Any agreement adopted must provide for not less than four hours of work in any shift.
- If an employer whose employees have adopted an agreement requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer must pay the employee overtime compensation at a rate of 1.5 times the regular rate of pay for all hours worked more than eight hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.
- The employer cannot reduce an employee's rate of pay as the result of establishing or rejecting an alternative workweek.
- An employer must make a reasonable effort to find a work schedule not to exceed eight hours in a workday to accommodate an employee who is eligible to vote in the election and who is unable to work the AWS established as a result of the election.
- An employer must explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with the adopted AWS.

## Alternative Workweek Election Process

For an AWS to be valid, an employer must do the following:

1. Identify a work unit.
  - a. For an AWS, affected employees in a work unit may include "all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit are met."
2. Propose the alternative workweek schedule (AWS) to the work unit. This must be in the form of a written agreement proposed by the employer.
  - a. The proposal must designate a regularly scheduled AWS in which the specified number of workdays and work hours are regularly recurring. Note: the actual days worked within the AWS need not be specified.
  - b. An employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options from which each employee in the unit would be entitled to choose. If the employer proposes a menu of schedule options, an employee may, with the employer's approval, move from one menu option to another.

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3. Meet with employees to explain what the alternative workweek means, what its implication for traditional overtime is, and the effect the proposed arrangement will have on the employees' wages, hours, and benefits.
  - a. Employers must conduct this meeting to distribute this written notice and explain the proposal at least 14 days before the vote. If affected employees are absent, the notice must be mailed to them.
  - b. The notice must include a written agreement proposed by the employer. The agreement must designate an alternative workweek schedule with a regularly recurring number of workdays and work hours. Actual days worked within that workweek schedule do not need to be specified. Employers can propose one schedule or several schedules to give employees options. Employees may move between options at the discretion of the employer.
4. Conduct a secret ballot election on the AWS implementation at the workplace. The election shall be held during regular working hours at the employees' work site. Ballots may only be cast by those in the affected work unit.
  - a. The AWS only passes if at least two-thirds of the work unit voted in favor of it.
  - b. Upon petition, employees may repeal the AWS.
  - c. Employers may not coerce or have undue influence in the AWS voting/proposal process. Employees may not be discriminated against or discharged for voicing an opinion either for or against the AWS.
5. Report the results of the secret ballot elections to the appropriate state agency within 30 days of a final result.
6. Implement the new schedule as agreed upon with employees.
  - a. Employees affected by a change in the work hours/schedule resulting from the adoption of an AWS may not be required to work the new hours for at least 30 days after the announcement of the election results.
  - b. Employers must make reasonable efforts to provide employees who cannot work the AWS with a schedule consisting of no more than eight hours per day.

## Reporting the Election

All Alternative Workweek Election results must be sent to the Division of Labor Statistics and Research within 30 days of the final result. The end of this guide has a template you can use.

The information listed below should be included in memo format to the Division of Labor Statistics and Research:

- Company name, phone number, address, and contact person
- Date of election
- Statement of passage or failure of the election
- Description of the actual alternative workweek schedule up for election

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- Election results (e.g., "...50 out of 60 employees in the affected work unit voted in favor of the alternative workweek schedule...")
- If more than one person voted: a statement that the vote was a written, secret ballot, and that it passed by at least two-thirds of the vote (or that it failed)
- If only one person voted: a statement that the vote was a written, secret ballot, and how the one person voted

Do not include copies of the AWS election ballots or election procedures. Send election results to:

Department of Industrial Relations  
Office of Policy, Research, and Legislation  
P.O. Box 420603  
San Francisco, CA 94142-0603

## Repeal Process

Along with specific procedures for instituting an alternative workweek schedule, there are specific rules for how it may be removed once instituted.

- A group of employees affected by an alternative workweek schedule may repeal it. Upon petition by one-third of the affected employees, a new secret ballot election must be held. A two-thirds vote of the affected employees is required to reverse the alternative workweek schedule.
- The election to repeal the alternative workweek schedule must be held within 30 days after the petition is submitted to the organization. However, the election shall be held not less than 12 months after the date that the same group of employees voted in an election to adopt or repeal an AWS.
- If the alternative workweek schedule is revoked, the organization must comply within 60 days.
- An employer may unilaterally rescind the AWS, even without election by the work unit, as long as adequate notice is furnished.

## Conclusion

Employers may freely adopt an alternative workweek schedule, so long as the procedural rules are complied with. Failure to comply with each of the steps to adopt an alternative workweek schedule may make the election procedures and schedule null and void.

Employers should keep in mind, however, that a decision to incorporate a workday that extends longer than 10 hours will be impermissible unless overtime is paid. In other words, a proposed 12-hour day would technically be allowed but the two hours outside the standard 10 would have to be paid at the overtime premium rate of 1.5 the regular rate.

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## Sample Company Policy

The Company utilizes an Alternative Workweek Schedule (AWS) to provide certain nonexempt employees with more days off during the workweek than a traditional work schedule, as allowed under California state law. The AWS applies to nonexempt employees in the following departments: **[enter company unit(s)/department(s) that approved the AWS]**.

Employees will be given their individual duty hours, including the AWS, if applicable, upon hire and at the time of any change in position. If the normal duty hours are changed or if the Company changes its operating hours, employees will be given written notice to facilitate any personal planning.

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## Sample Proposal to Adopt

[Date]

To [work unit],

According to the California Labor Code, employees can elect an alternative workweek schedule (AWS). These usually take the form of four 10-hour workdays each workweek without daily overtime for hours above eight in those four days. You would be waiving daily overtime for hours worked up to 10 hours in a day in exchange for the extra day off or the terms of the schedule. Two-thirds of your [work group/company] must approve this arrangement through a secret ballot election. The secret ballot will occur no sooner than 14 days from your receipt of the proposal and the accompanying meeting.

[Insert details of the AWS proposal and what it means for traditional overtime.

**Sample language:** Under this proposal, all employees in [company/subdivision] will work [four 10-hour days] every week. Under this schedule, daily overtime will only be paid for hours above the agreed-upon schedule of [10 hours] for any work in excess of the regularly scheduled hours in any workday beyond the schedule established by the agreement, up to 12 hours a day or beyond 40 hours per week. If an employer whose employees have adopted an agreement requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer will pay the employee overtime compensation at a rate of 1.5 times the regular rate of pay for all hours worked in excess of eight hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.]

A meeting will be held on [date], 14 days before the election, explaining this proposal. This meeting and all voting time will be paid. We will not attempt to influence any employee's vote.

If you want an alternative workweek schedule that waives most daily overtime, you should vote for the proposal. If you do not want the [department/company] to begin this arrangement, you should vote against the proposal. Accommodations may be granted to employees who prefer to keep their old hours if the AWS is accepted by the work unit.

If the proposal is adopted, you will not be required to work the new hours until 30 days after the announcement of the final results of the election. No employees will face discrimination or retaliation of any kind for their support or opposition to this proposal.

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Employee acknowledgment:

Employee signature: \_\_\_\_\_

Name (print): \_\_\_\_\_ Date: \_\_\_\_\_

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## Secret Ballot for Alternative Workweek Election

Do not write your name or self-identifying marks on this, as it is an official secret ballot.

[Insert details on proposed schedule]

According to Wage Order #[insert number], I understand that I can agree to an alternative workweek that consists of [four 10-hour workdays/other AWS schedule]. I understand that this vote on my behalf will preclude me from receiving daily overtime pay for work hours of up to 10 hours in a day as required in the state of California. I understand that I will, however, continue to receive overtime payments for all hours worked over forty in one work week or when still applicable under state law.

At least 14 days before the vote, my employer held a meeting to explain this proposal and distributed a proposal that included the schedule option(s) in writing.

I am casting this ballot without any pressure from my employer, and am free to agree or disagree with this proposed alternative workweek. I understand that the results of the election will be binding.

- I vote for this alternative workweek as described above.
- I vote against this alternative workweek as described above.

Please contact [department or title] if you and one-third of affected employees would like to seek repeal of this group election. This requires an additional secret ballot election.



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## Announcement to Employees of Results

Dear team,

After the final voting, the work unit of [company/subdivision] has [approved/denied] the proposed alternative workweek schedule.

The final secret ballot vote tally was [results].

[If vote succeeds, add the following: You will not be required to comply with the new schedule for 30 days from the date of this announcement. The new schedule will begin formally on [date]. Please contact [name/title] if you seek arrangements or accommodations.]

[If vote fails, add the following: The existing work schedules will remain in place.]

At a later date, if you want to reverse this alternative workweek, one-third of employee signatures may be collected. If one-third of employees seek to revoke this arrangement another election will be held within 30 days. *An election on this subject can only occur once every 12 months.* If an alternative workweek schedule is revoked by employee election, the changes will take effect between 30 and 60 days from the new election.

Sincerely,

[Company representative]

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## Election Results Summary Letter

Send within 30 days of the election via first class mail.

[Date]

Department of Industrial Relations  
Office of Policy, Research, and Legislation  
Attention: Alternative Workweek Election Results  
P.O. Box 420603  
San Francisco, CA 94142-0603

Dear Division of Labor Statistics and Research team,

The employees of [company and specific work unit] have elected and formally adopted an Alternative Workweek Schedule (AWS) according to the terms of the California Labor Code. Our business is an [nature of business] in the [industry].

After relevant notifications and requirements, a secret ballot election was conducted on [date] by [all employees/recognized subgroup/department] regarding the proposed AWS. The proposed schedule was as follows:

[insert schedule details]

Employees voted through a secret ballot [in favor of/against] the proposed AWS. The AWS election [succeeded/failed] according to [# yes votes] out of [total votes cast/eligible voters]. The affected work unit includes [number] of employees.

Please contact my office with any questions.

Sincerely,

[Company representative]  
[Company name]  
[Phone number]  
[Address]