



DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION
CITY OF CHICAGO

December 14, 2021

On December 13, 2021, the Office of Labor Standards hosted a webinar about the City of Chicago's Fair Workweek Ordinance, Chapter 6-110 of the Municipal Code of Chicago ("MCC"). We discussed some recurring compliance issues that the Office has identified in its first year of enforcement. Thank you to the many participants who attended and asked thoughtful questions.

At or shortly after the webinar, we received two hypothetical questions that warrant an answer in writing so that all attendees and future viewers of the webinar can receive a detailed explanation:

1. Can a Covered Employee decline a schedule change when a manager sends them home early? For example, if the Covered Employee is scheduled to work 9am-5pm and the manager directs the Covered Employee to leave for the day at 2pm, can the Covered Employee refuse to leave under the Fair Workweek Ordinance's right-to-decline provision?

No, the Fair Workweek Ordinance does not afford the Covered Employee the right to refuse to leave. The right-to-decline provision states that an employee has the "right to decline any previously unscheduled hours that the Employer *adds* to the Covered Employee's schedule" subject to certain exceptions. MCC § 6-110-050(a) (emphasis added). Thus, the right to decline applies to *added* unscheduled hours. An Employer may send a Covered Employee home early from a shift. Unless a valid exception applies, however, the Covered Employee will be entitled to predictability pay. MCC § 6-110-050(b)(1)(C), (b)(2).

2. Do two schedule changes to the same shift mean that the Covered Employee receives predictability pay twice? For example, what pay is owed if the Employer adds to a Covered Employee's schedule a 4-hour shift with fewer than 10 days' notice and then, on the day of the shift, the Employer increases the shift to 5 hours because of unforeseen customer traffic at the work site (a retail store)?

Yes, the Covered Employee is entitled to predictability pay for both changes. The first schedule change is adding the shift with fewer than 10 days' notice.¹ Assuming that none of the exceptions listed in Section 6-110-050(d) apply, that schedule change entitles the Covered Employee to one hour of predictability pay. MCC § 6-110-050(b)(1)(A). The second schedule change occurs when

¹ Please note that the notice requirement increases to 14 days' notice on July 1, 2022. See MCC § 6-110-050(a).



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the Employer adds an hour to the shift while the Covered Employee is working on a shift. If no exceptions apply, the Covered Employee is then entitled to an additional hour of predictability pay. *Id.*

As stated in the webinar, the Office of Labor Standards is committed to assisting the business community in its efforts to understand and comply with the City of Chicago's employment protections. Please feel free to reach out to the Office with questions.

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