NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

RONALD P. YOUNKINS, ESQ.
EXECUTIVE DIRECTOR

MEMORANDUM

February 1, 2018

To: District Executives
New York City Chief Clerks
OCA Directors

From: Ronald Younkins RY
Barry Clarke BC

Subject: Alternative Work Schedules

This memorandum clarifies the Court System's policies regarding Alternative Work Schedules (AWS). These policies are intended to ensure that an appropriate balance is struck between employees' requests for an AWS and our responsibility to ensure that courts and offices are staffed in a manner that best serves the public. Attached is a revised and streamlined form to be used by employees who are requesting a change in their assigned work schedule.

Management-Assigned Work Schedules

All employees have an assigned work schedule. The standard, full-time work schedule is Monday through Friday, 9:00 a.m. to 5:00 p.m with a one-hour lunch. Upon proper notice, the court system may, for operational reasons, assign employees to schedules that vary from the standard work schedule. A management-assigned schedule is not an AWS schedule.

Prior to establishing a management-assigned work schedule outside of the standard schedule, local management must first discuss the proposed schedule with the Deputy Chief Administrative Judge (DCAJ) and secure approval to implement the schedule. Once the schedule is approved by the DCAJ, please consult with the Office of Labor Relations with respect to the required process for assigning employees to work the schedule.

A management-assigned work schedule outside of the standard work schedule should be periodically reviewed (in no case less than once a year) to ensure that the schedule continues to meet the operational needs of the court.

Alternative Work Schedules

An AWS is an employee-initiated schedule that deviates from the standard full-time work

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schedule or from the employee's assigned work schedule. There are a variety of AWSs. The most common are:

- A full-time, Monday to Friday workweek, with hours outside the standard 9:00 a.m. to 5:00 p.m.;
- A full-time compressed schedule where the employee works 70 hours in a two-week period but in fewer than 10 work days;
- A part-time schedule (less than 70 hours in a two week period); and
- Job-shares where two employees share the same position/line.

Consideration of an AWS request is based on the following factors:

Court Operations Will the proposed schedule have an impact on court operations, service to the public, or the quality or quantity of work performed?

Supervision/Management Will the proposed schedule have any impact on supervision? For example, if an employee is requesting to work from 7:00 a.m. to 3:00 p.m., how will the employee be supervised prior to the start of the standard workday? If the employee requesting the AWS is a supervisor, who will perform supervisory responsibilities when the employee is not at work? For example, if a supervisor is requesting a compressed work schedule, who will supervise employees on the supervisor's day off?

Security Is security present during the requested schedule? If not, what security issues are posed by the AWS? Will approval of the AWS generate security costs?

Overtime Will approving the alternative work schedule generate overtime or compensatory time? In this regard, note that with respect to compressed schedules, compensatory time is generated when the employee's regular day off (RDO) falls on a holiday. For that reason, and because many holidays fall on Monday, absent extraordinary circumstances, Monday should not be approved as the RDO for an employee on a compressed schedule.

Co-workers Will granting the schedule have an impact on or create any issues with respect to other employees? For example, will the requested schedule affect coverage for certain assignments or distribution of work during periods of high volume? Because not every employee is in a title/assignment in which an AWS is possible, would granting a particular request create a perception of unfairness?

The process for seeking an AWS is as follows:

- An employee seeking approval of an AWS completes an Alternative Work Schedule Request Form (UCS-70) and submits it to the administrative office.
- Based on the factors set forth above, the administrative office makes a recommendation to approve or deny the request.
- The administrative office forwards the completed UCS-70 to the Deputy Chief Administrative Judge (DCAJ). The form should not be forwarded to the DCAJ

unless all of the factors set forth above are adequately addressed.

- The DCAJ notifies the administrative office and the employee whether the request is approved or denied.
- AWSs are approved for no longer than 6 months.
- An employee seeking an AWS for a period longer than 6 months must repeat the request process.
- The DCAJ may delegate to the Administrative Judge the authority to approve full-time AWS schedules with start and end times between 8:00 a.m. and 6:00 p.m. Additionally, the DCAJ may determine that such schedules may be approved for as long as 12 months, rather than 6 months.

Finally, please be advised that the policy requiring that all schedules provide for a minimum of 45 minutes for lunch remains intact. This applies to both AWS and management-initiated schedules, except for those management-initiated schedules where a modification to the 45-minute minimum lunch period is currently in effect.

Questions concerning the revised AWS Request form, or how to evaluate the factors to be considered may be directed to the Division of Human Resources at 212-428-2515. Where an employee-initiated request for an AWS requires consideration of employment law (e.g., FMLA, ADA), or a collective bargaining agreement, please contact the Office of Labor Relations at 212-428-2585.

Thank you for your attention to this critically important issue.

Attachment

c: Hon. Lawrence K. Marks
Hon. Michael V. Coccoma
Hon. George J. Silver
Hon. Edwina G. Mendelson
Administrative Judges
New York City County Clerks
John George, Esq.
Maria Logus, Esq.
Scott Murphy
Michelle Smith, Esq.

State of New York Unified Court System
Alternative Work Schedule Request Form (UCS-70)

Part I: Completed by Employee requesting an Alternative Work Schedule (AWS)

Print name _____ Title _____

Court or Office _____

Instructions:

- Do not submit this form for a management-assigned work schedule.
- Submit AWS request form to manager/supervisor and local administrative office.
- Request must be submitted at least six (6) weeks prior to the proposed start date.
- AWS cannot begin until final approval by the Deputy Chief Administrative Judge/OCA Executive Director.
- Employees on probation are not eligible for AWS.
- AWS requests are approved for a maximum of six (6) months.
- Part-time schedules greater than 50% or less than 100% are approved for 12 weeks. Limited extensions may be granted.
- Compressed schedules with Monday as the regular day off (RDO) are not approved absent extenuating circumstances.
- Full-time schedules should include an hour lunch. A request with a minimum 45-minute lunch will only be approved in extenuating circumstances.

AWS Proposed: Start Date _____ **End Date** _____

Is this an extension of a current AWS? ☐Yes ☐No

Week 1			**Week 2**		
Thursday:	___am	___pm	Thursday:	___am	___pm
Friday:	___am	___pm	Friday:	___am	___pm
Saturday:	___am	___pm	Saturday:	___am	___pm
Sunday:	___am	___pm	Sunday:	___am	___pm
Monday:	___am	___pm	Monday:	___am	___pm
Tuesday:	___am	___pm	Tuesday:	___am	___pm
Wednesday:	___am	___pm	Wednesday:	___am	___pm

Is the AWS Request made pursuant to FMLA? ☐Yes ☐No
Is the AWS Request made pursuant to the ADA? ☐Yes ☐No
If you checked Yes to either, please contact the human resources professional in your local administrative office prior to submitting this form to discuss your request and ensure that you have the required medical documentation to submit with the form.

Is the AWS request for Part-time 50% ☐Yes ☐No
If you are requesting a part-time 50% schedule - note that once you have completed a full year (two successive AWS at 50%) you must return to your full-time position. If you request to continue part-time 50% after a full-year, and the request is granted, you will become permanent part-time-50% and will forfeit your right to a full-time position.

Please sign and date before submitting the AWS request to your manager/supervisor and/or local administrative office.

Signature _____ Date _____

Part II: Completed by Local Management

Employee Hire Date: _____ **Time in Current Title:** _____

- If employee is probationary in current title, return the AWS request.
- Complete every question below and provide detailed explanations in the space provided.
- Submit Recommendation to Deputy Chief Administrative Judge/OCA Executive Director.
- If all questions below are not answered in detail, the form will be returned.

Basis for request: What reason, if any, was provided in support of the employee's AWS request?

Court operations: Will the proposed schedule impact service to the public, quality of work and/or quantity of work performed? ☐Yes ☐No

Explain

Overtime implications: Will the proposed schedule generate overtime and/or compensatory time? ☐Yes ☐No

Explain

Management and Supervision: During the proposed schedule, is supervision in place? ☐Yes ☐No

Explain

Does employee requesting AWS have managerial or supervisory responsibilities? ☐Yes ☐No

Explain: If Yes, explain specifically how employee's managerial or supervisory responsibilities will be performed in the employee's absence.

Is security in place at all times during the requested schedule? ☐Yes ☐No

Explain

Does the proposed schedule have an impact on other employees, including work assignment and/or morale? ☐Yes ☐No

Explain:

Recommendation of the Manager/Supervisor completing form:
☐Recommended ☐Not Recommended

Print name _____ Signature _____ Date _____

Recommendation of Administrative Judge (or designee: Chief Clerk/District Executive)/OCA Director:
☐Recommended ☐Not Recommended

Print name _____ Signature _____ Date _____

Determination of Deputy Chief Administrative Judge/Executive Director: ☐Granted ☐Denied

Print name _____ Signature _____ Date _____