



January 11, 2019

Michael Paglialonga
Department of Labor
State Office Campus
Building 12, Room 509
Albany, NY 12240

RE: Revised Proposed Employee Scheduling (Call-In Pay) Regulations

Dear Mr. Paglialonga:

The Greater Binghamton Chamber of Commerce, a business membership organization with over 825 members, submits the following comments regarding the revised employee scheduling regulations.

The revisions made by the Department of Labor on the proposed employee scheduling regulation is a step in the right direction; however, the proposed rule will still be a large burden to many employers in our region. This regulation will be another increase in administrative costs for businesses. The Southern Tier and the Binghamton area are already suffering under a sluggish economy and this regulation would increase the complexity of owning and managing a business.

The record keeping requirements that businesses will need to manage in order to demonstrate compliance needs to be more detailed by the Department. The statute of limitations on labor law violations is 6 years. Adequately demonstrating compliance with this rule could potentially involve documenting weather reports and various communications between management and employees over extended periods of time. Employers would be held responsible for this documentation in order to avoid frivolous lawsuits.

A key concern is that the flexibility of both the employer and the employee will be severely limited under these proposed rules. The employee is hurt from this policy because the employer will face more challenges when approving leave within a two-week timeframe. This is because the employer may be financially penalized for making the scheduling change.

Consumer driven, and hospitality industries will be greatly affected by this proposed regulation. For instance, convention centers may have an event planned for 50 people, and a day before the event the attendance shifts to 100. The needed increase in staff to handle such a change is a challenge to begin with but becomes even more challenging when the business owner may incur additional expense due to this proposed rule.

Another example is a childcare center that must change an employee's schedule due to a sick child or a sick employee. Childcare centers are required maintain their staff to child ratios. These scenarios often cannot be scheduled two weeks in advance or even 72 hours in advance. Many childcare centers are closing and already are operating on extremely small margins. Childcare Centers suffer under an

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unfavorable regulatory climate including minimum wage increases, too low of a childcare subsidy, staffing ratios, and this regulation would be another difficult rule to comply with. The expense incurred by this proposed rule ultimately must be passed on to the families.

The Chamber would like you consider two key recommendations:

One key recommendation is that there should be at least a 6-month window for small businesses, with less than 50 employees, to change their practices if this regulation is implemented.

A second key recommendation is that the Department of Labor clarify if employers maintaining a list of employees who have agreed to take additional shifts with little notice would satisfy the written communication portion of the safe harbor provision. If employers are able to have an agreed upon call-in list to use when additional staff is needed, this would grant much more flexibility. This would alleviate much of the pressure caused by this regulation.

We applaud the changes the state adopted to make this less burdensome, but they are not sufficient to fundamentally change the negative realities this policy would create. This policy would punish employers for many factors that are simply beyond their control. Key policy decisions such as this one should be addressed by the Legislature through the legislative process. The Legislature is in the best position to determine whether the compliance burdens this type of regulation would impose on many of the state's employers is justified. We hope the state takes into account the possible tradeoffs that will be associated with this policy change and the difficulty this would create for businesses in our area.

For the above reasons, The Greater Binghamton Chamber urges the Department of Labor to further review the proposed regulations and consider additional changes or the elimination of this rule.

Sincerely,



Jennifer Conway
President & CEO
Greater Binghamton Chamber of Commerce