

As printed in the Orange County Register

### **OC Register Q&A – Flex Time**

**Q:** I work for an insurance company with less than 30 employees. The company offers 'flexible hours', which, when I was hired, were explained as being 7-4, 8-5 or 9-6. A new manager is allowing employees with children to come in late (10:30), work for one hour, take a one and a half hour lunch and leave at 4:30. This equates to a 4½ hour work day with full time pay. I asked if I could start keeping the same hours as they do but was told that I am expected at the office eight hours a day. These employees have this special arrangement because they have small children at home. During the school year they are allowed to 'work from home' a few days per week however those without small children do not get this option.

I would appreciate your opinion on this most frustrating situation. There is nothing in our employee handbook that addressed this situation.

**A:** The answer to your questions depends on whether the employees in question are exempt (receives a salaried wage) or non-exempt (paid by the hour). If the employees are exempt, your employer may not reduce their salaries for working less than a scheduled workday, without jeopardizing the employees' exempt status under the Fair Labor Standards Act (FLSA). While it is commendable that your employer recognizes the need for balancing work and family, they should adopt a systematic approach to schedule changes, in a written policy, to avoid any inequities in the decision-making process and minimize the perception of unfairness or favoritism.

If these employees are non-exempt, flexible scheduling has been greatly restricted due to changes in California overtime regulations (AB 60) requiring overtime payment when a workday exceeds eight hours or a workweek exceeds 40 hours. Qualified compressed workweeks may be established without the overtime payment requirement if at least two-thirds of all affected employees vote by secret ballot in favor of the compressed workweek. Since the employees in question are working less than 8 hours, if they are non-exempt, they should be getting paid for the hours they actually work versus what they are scheduled for.

- Written by Audrienne Adams