

Policy Brief

October 2019

Fair Scheduling

Unstable work schedules can make it impossible for workers to achieve financial security. When employers control employees' schedules and provide little notice regarding the number of hours or the timing of shifts, budgeting household income, arranging childcare, pursuing postsecondary degrees or credentials, scheduling transportation, and meeting other family needs are all more difficult. Women, Black, and Latinx workers are disproportionately likely to work in jobs with irregular hours that are not within their control.

Ironically, while employers use just-in-time scheduling or software scheduling in an effort to save money, workplace scheduling policies that give employees more notice and choice in their hours and predictability in their paychecks can actually be beneficial to both parties. Fair scheduling reduces turnover and promotes the financial well-being of workers and their families. Scheduling practices also affect health, child welfare, and productivity. In fact, some research suggests that laws or practices promoting fair scheduling may have a more profound effect on worker well-being than wage increases.ⁱ It is unsurprising, then, that many states, localities, and employers are enacting fair scheduling policies. Indiana should join them in setting minimum standards and encouraging best practices.

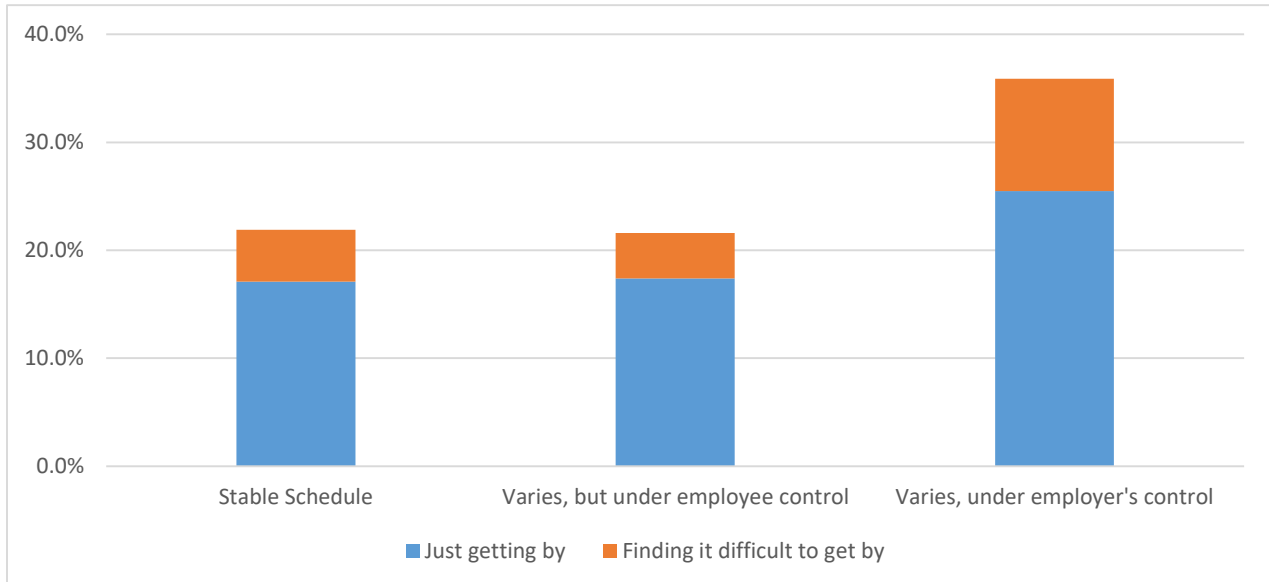
The Scope & Effects of Unstable Scheduling

One in four workers has an irregular work schedule.ⁱⁱ While some of these workers can control the variation in their schedule, seventeen percent of all workers have a schedule that varies based on their employers' needs. This can mean receiving short notice of work schedules or fewer hours than desired. In fact, one in five adults wants to work more hours than they receive. Disproportionately, those experiencing irregular scheduling are Black and Latinx workers.ⁱⁱⁱ Women are also overrepresented in the jobs and industries in which unstable and unpredictable work hours are most common—which can be particularly problematic since women still shoulder the bulk of caregiving responsibilities in families.^{iv}

Electronic workforce management systems, which allow large employers to hire a cadre of part-time workers and change staffing relative to the rise and fall of customer demand, has facilitated a shift to on-call work and irregular schedules.^v Irregular work schedules tend to be more common in jobs requiring less than a bachelor's degree and in certain industries and occupations. One third of employees in retail or accommodations now have varying schedules, and about half of workers with schedules that are based on their employers' needs tend to receive notice of their schedule three or fewer days in advance.^{vi}

As Figure 1 shows, these adults are far more likely to report that they are “just getting by” or “finding it difficult to get by” than those who work regular hours or have control over their irregular schedule. Even comparing workers who earn similar wages, those with unpredictable or unstable schedules were more likely to experience material hardship than those with stable schedules.^{vii} Beyond making it difficult to earn and budget a paycheck, just-in-time scheduling also makes it difficult to secure and hold down a second job or complete postsecondary education or training.^{viii} In a recent study of service sector employees, on-call work and cancelled shifts are also associated with job dissatisfaction, work-family conflict, and greater odds of job turnover, typically leading to downward mobility in earnings.^{ix}

FIGURE 1. When Scheduling is Under Employers’ Control, Workers are More Likely to Struggle Financially



Source: Authors Calculations Based on Survey of Household Economic Decision-Making, 2018

Compounding the financial struggles that accompany fluctuating paychecks or receiving fewer work hours than desired, some public benefit programs that low-wage workers use to supplement their income or access health care require a certain number of work hours. In Indiana, for example, the following programs have work requirements:

- Supplemental Nutrition Assistance Program: For individuals 18-49 who are not disabled and do not have dependents, assistance is limited to three months in a 36 month period unless the individuals are working an average of 20 hours per week for a total of eighty hours per month.^x

- Healthy Indiana Plan: Beginning July 1, 2019, individuals who are not exempt must report activity hours (work, education, or service). By July 1, 2020 these hours must total 80 per month.^{xi}

Employees with unstable schedules or who want to work more hours than they are given may experience difficulty meeting the requirements for these programs.

Beyond struggling financially, workers with irregular schedules report difficulty meeting their caregiving responsibilities, arranging childcare, seeking further education, and coordinating transportation. These schedules affect other family members as well. For example, parents with nonstandard work hours report greater stress and less time spent with their children, resulting in irregular mealtimes and bedtimes, poorer child care arrangements, and fewer pre-academic activities at home, affecting child development.^{xii} Unstable scheduling has also been linked to difficulty making and keeping health care appointments, well-child visits, or prenatal appointments.^{xiii}

Paradoxically, while the motivation to use just-in-time scheduling is often financial, such practices can cost employers. Unstable work schedules increase the likelihood that employees will seek employment elsewhere.^{xiv} Employee turnover has been calculated to cost an average of one fifth an employee's annual salary, largely because productivity suffers while seeking and training a new employee.^{xv} Absenteeism also increases with erratic scheduling.^{xvi} Furthermore, the damage to employees' financial well-being, health, and relationships outside of work affect workplace performance.^{xvii}

How States, Localities, and Employers Provide Stable Schedules

States, localities, and individual employers can make scheduling policy changes that benefit both employees and employers.^{xviii} Here are a few of the strategies employed in other states, localities, and workplaces:

Requiring advance notice. Some states and localities require employers within certain industries to provide a good faith estimate of the minimum number of hours they will receive at the time they offer employment, regular advance notice – typically a minimum of two weeks - of the employee's schedule, or both.

Protecting workers from retaliation for making schedule requests. Several states and localities have passed laws prohibiting retaliation against employees who request a schedule that is more stable, flexible, or otherwise meets their needs. Some include protections for shift-trading or limiting availability without penalty. Others protect specific groups, like caregivers. Where employers are required to give advance

notice of work schedules, some jurisdictions prohibit penalties for refusing shift changes that are made after the required notice period.

Discouraging certain scheduling configurations. Some states and localities prohibit or require extra pay for practices like “clopening,” where an employee must work the closing shift one night and the opening shift the next day, or split shifts, where employers schedule non-consecutive blocks of time within the same day (e.g. 12-3pm and 5-8pm).

Requiring compensation for last-minute changes. Some localities require compensation when erratic scheduling is likely to affect employee’s financial well-being. For example, Emeryville, CA requires employers in certain industries to add one extra hour of pay for each shift that is changed with less than two weeks’ notice, and four hours of hourly pay for each cancelled shift. Oregon requires one hour of pay for changes like adding time to a shift, changing start or end times, or scheduling extra shifts. D.C. requires employers to pay for a minimum of four hours on any day an employee reports to work.

Providing access to hours. Because many workers want more hours than they receive, some localities require employers in certain industries to ensure that current workers are offered available shifts before new hires or temporary workers are added. The Fair Workweek Employment Standards Ordinance recently passed in Philadelphia, PA, for example, requires employers in retail, hospitality, or food service establishments with more than 250 employees to provide notice of open shifts for 72 hours before making new hires.^{xix}

These reforms have provided critical relief and stability to workers. In fact, research suggests that the magnitude of impact on affected workers’ psychological well-being may even be more profound than other policy changes like increasing the minimum wage.^{xx} It is time business leaders and policymakers in Indiana looked at scheduling policies to promote financial well-being, worker health, employee retention, and family stability.

Policy Recommendations

State or local governments in Indiana have yet to enact any policies promoting fair scheduling. In fact, in 2016, the state legislature added “scheduling” to the list of regulations localities are prohibited from enacting (IC 22-2-16-3), so local units of government may not “establish, mandate, or otherwise require an employer to provide to an employee who is employed within the jurisdiction of the unit:

- (1) a benefit;
- (2) a term of employment;
- (3) a working condition; or
- (4) an attendance, scheduling, or leave policy; that exceeds the requirements of federal or state law, rules, or regulations.”

To bolster the economic well-being, health, and productivity of our workforce, Indiana leaders and policymakers should:

Establish basic standards for scheduling practices. At a minimum, employees should be allowed to request minimum and maximum hours and preferred work schedules without fear of retaliation. Indiana should improve the treatment of workers through advance notice requirements and premium pay for scheduling practices like clopening, last-minute schedule changes, or on-call hours not worked. Employers should also ensure that established workers are offered additional hours before making new hires and offer to assist workers with transportation when last-minute schedule changes are needed.

Amend unemployment insurance rules to make benefits accessible. Workers with unstable scheduling may be denied or think they are ineligible for UI benefits if it is unclear that scheduling changes can constitute good, work-related reasons for quitting.^{xxi} Indiana currently lists “your employer arbitrarily (unreasonably) changes the terms or conditions of your work” as a good, work-related reasons for voluntarily quitting, but also includes “unexcused absences or tardiness” as rendering employees ineligible. It also considers “on-call and as-needed workers if they receive pay OR refuse work during any week” ineligible.^{xxii} Indiana should restructure the rules to reflect the reality that workers with unstable schedules who cannot reconcile shifts with their family or educational obligations.

Remove the preemption on local scheduling ordinances and encourage the study of/local responses to scheduling practices. Employers’ scheduling practices affect the health and well-being of the entire community. Therefore, localities should be allowed to respond when employers’ scheduling practices harm their communities by setting expectations that are responsive to the local context. This would allow localities to study and balance the impact of employer scheduling practices on local schools, public transit, childcare facilities, and more.

Include scheduling requirements in economic development incentives. While a baseline standard should be applied more broadly, employers that receive economic development incentives should be held to a higher standard for scheduling practices.

Irregular scheduling currently serves as a barrier to well-being for too many Hoosiers. Policies that set minimum standards and incentivizes practices that provide workers with more notice, control, and compensation will serve Indiana well as it strives to improve the living standards for workers and provide an environment in which hard work serves as a path to self-sufficiency.

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