

# RWDSU

**Retail, Wholesale and Department Store Union**

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**New York State Department of Labor  
Testimony Regarding On-Call Scheduling  
September 28, 2017**

My name is Josh Kellermann and I am the Director of Public Policy for the Retail, Wholesale and Department Store Union, RWDSU. We represent over 100,000 workers primarily in retail, food processing, and other low wage sectors. We are here today to testify about the egregious practice of on-call scheduling, and its impact on low-wage workers. We are thankful that the NYS DOL is turning its full attention towards this issue, as the retail sector is a hot-bed for abusive scheduling practices and the attendant rise in precarious work.

Let me say at the outset that we are thankful for the DOL's deliberate process by which they arrived at holding this hearing today. The DOL consulted us on this issue to understand the various permutations of scheduling practices and we appreciate that outreach. We hope that this deliberate process will help us to arrive at a solution that protects workers while also ensuring businesses can thrive in NY.

On-call scheduling is a pervasive and exploitive employment practice where a worker does not find out until just before a scheduled shift if they will be required to work or not. Imagine putting your life on hold to be available for work – regardless of whether you will be called-in or paid. If you are a part-time worker, the uncertainty of your schedule means you can't arrange for a needed second job and that you can't count on a paycheck to pay rent. If you are a parent, you don't know if you are going to need child care. If you want to continue your schooling, you can't sign up for classes without knowing your availability. On-call scheduling shifts the costs of doing business from the employer to low wage employees, those who can afford it least. In fact, research has shown that it has negative impacts on businesses in the form of higher turnover and reduced morale leading to lower customer satisfaction, yet the practice is still pervasive.

Today's hearing should shed light on this abusive scheduling practice, and orient the DOL to the right solution. Tightly restricting abusive scheduling practices will close a huge loophole that leads to precarious work, and will help to ensure the future of work is defined by stability rather than by insecurity. By regulating on-call scheduling practices, workers will gain more control over their own lives and their ability to earn a living.

Let me note a few statistics that highlight the severity of the problem of abusive scheduling. A survey of retail workers by the Retail Action Project showed that only 17 percent of workers surveyed have a set schedule. The vast majority, seventy percent, get their schedules with less than a week's notice.

Moreover, a recent study out of Penn State University showed that nationwide, the number of people working involuntarily part time has increased by two million people since 2007, with the retail and the

leisure and hospitality industries alone accounting for over half of that growth. These part time workers are 2.5 times more likely to have varied and unpredictable hours than full time workers. This means that the lowest wage workers are also the most likely to be subject to on-call hours, creating layer upon layer of instability.

Based on this data, creating predictable scheduling will have an impact on thousands of workers across NY. And given the national rise in precarious work, NY's regulations will have national significance for low wage earners.

Now I would like to turn to the key ways in which on-call scheduling is practiced by employers. These categories of scheduling practices should help orient the regulatory reform effort to the key scheduling abuses we see in our industry.

#### On-Call Shifts

As already mentioned, on-call scheduling requires workers to be available to work and to either contact the employer or wait to be contacted to determine whether they must report to work. New York City has banned this practice outright, and we look forward to additional levels of protection to be provided to the rest of the state.

#### Shifts Cancelled Without Adequate Notice

This is a scheduling practice where an employer schedules a worker for a shift but cancels last minute. Similar to the impact of on-call scheduling, this practice often leaves workers with too little time to reschedule child care, or to schedule second jobs to make up for the gap in income.

#### Workers Getting Called in Last Minute to an Unscheduled Shift

This is a practice where the employer under-schedules its workers, or has an unexpected absence, and must call in workers last minute to fill in. Part time workers often rely on unscheduled shifts to make up for the lack of scheduled hours, but it still means that a worker must be available at all times.

#### Unscheduled Shift Extensions

This occurs when a worker has a regularly scheduled shift that is extended unexpectedly, wreaking havoc on an employee's responsibilities outside of work.

#### Inadequate Advance Scheduling

Many workers do not know their schedule in advance. This is deeply destabilizing for workers, all of whom have outside obligations or second jobs to juggle.

These various precarious scheduling practices place the cost of doing business on the backs of low-wage workers. This is unfair, immoral, and should be regulated appropriately.

I want to thank you for the opportunity to testify on this important issue.