I. STATEMENT

This procedure describes alternative work schedule options available to Appointing Authorities when setting work schedules for their employees. These options are in place to promote work-life balance, employee satisfaction, reduce our carbon footprint, and improve work productivity, and quality.

II. DEFINITIONS

Alternative Work Schedule (AWS): A term that includes any and all schedules that are outside of the standard work schedule for a particular position. Once established, an Alternative Work Schedule must remain fixed, except as provided herein.

Appointing Authority: Department Director or Elected Official (or their designee).

Calendar Week: Sunday through Saturday.

Fair Labor Standards Act (FLSA): Establishes minimum wage, overtime pay, and recordkeeping standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. An employee is either exempt or non-exempt from FLSA regulations.

Flex Day: The day in the work week the employee is off when working a 9/80 Exempt Schedule or when the employee is off four (4) hours when working a 9/80 Non-Exempt Schedule.

FLSA Exempt Employee: An employee who is not covered by the provisions of the FLSA. These employees are generally not entitled to overtime pay and are commonly referred to as salaried employees.

FLSA Non-Exempt Employee: An employee who must be paid for all hours worked in a work week, to include overtime pay for all hours worked over 40 in a work week. Commonly referred to as an hourly employee.
Pay Period: The two work week cycle consisting of two calendar weeks, beginning at 12:01 a.m. Sunday and ending at 12:00 midnight the second (2nd) Saturday thereafter. The calendar year is divided into 26 pay periods.

Work Week: A fixed and regularly recurring period which is seven (7) consecutive 24-hour periods that may begin on any day of the week and at any hour of the day. The work week is the basis on which determinations of overtime compensation is made.

Short Day: The eight-hour day of the 9/80 Exempt Schedule.

Standard Work Schedule: The basic schedule for a position, as determined by the Appointing Authority. For example, Monday through Friday, 8:00 a.m. to 5:00 p.m., with a one-hour, unpaid, midday meal break. The work week starts at 12:01 a.m. Sunday and ends 12:00 midnight the following Saturday.

III. AVAILABLE ALTERNATIVE WORK SCHEDULES

A. 4/10 Schedule

1. During the 40 hours in a work week, the employee will work four 10-hour shifts, and be off on the fifth day.

2. A 4/10 schedule may start at the beginning of any regular pay period or on any day in the work week as long as all four days of work are completed between the hours of 12:01 a.m. Sunday and 12:00 midnight the following Saturday.

3. A 4/10 schedule is available to both non-exempt and exempt employees.

B. 9/80 Exempt Schedule

1. During the 80 hours in the pay period, the employee will work eight 9-hour shifts, one eight-hour shift ("short day"), and be off on the tenth day (the “flex” day).

2. In a 9/80 exempt schedule, the start of the work week shifts to the middle of the short day. The employee’s work week starts four hours before the end of the work day, to include the thirty (30) minute lunch period. In the example below, the short day ends at 4:30 p.m. on a Friday, the work week starts four (4) hours and 30 minutes prior to that end time, or 12:00 p.m., and ends at 11:59 a.m. on the following Friday.
3. The short day must remain the same each pay period and cannot be changed. Changing a short day to another day in the work week changes the start of the work week and is therefore not permitted.

4. The employee may select any day of the week as their short day; however, once established, this day is fixed and it must remain the same.

5. The employee’s short day and flex day must be on the same day of the week in the alternate work weeks. If the employee’s short day is Tuesday of week one (1), their flex day must be Tuesday of week two (2).

6. Changing the flex day to another day in the work week can occur with Appointing Authority approval when a supervisor requires the employee to work on their regularly scheduled flex day or if the employee requests a change due to an unforeseen event. Not all requests to change a flex day can be granted. Requests for flex day changes should occur infrequently to ensure adequate staffing and coverage.

7. Employees initiating a 9/80 schedule, must begin them at the start of a pay period.

C. 9/80 Non-Exempt Schedule

1. During the 40 hours in the work week, the employee will work four 9-hour shifts, one 4-hour shift, and have 4 hours off (the “flex” day) on the remainder of the fifth work day.

2. Non-exempt employees are compensated on the basis of hours worked in a work week. Due to current constraints in the time-keeping system, non-exempt employees can only flex one-half day per work week.

3. The flex day must remain the same each work week.

4. Upon updating the current time-keeping system, the policy will be amended to provide a 9/80 schedule similar to exempt employees.
D. Other

1. Where an Appointing Authority has a specific AWS not identified within this procedure but which is better suited to their Department’s business needs, the Appointing Authority may submit a request to Human Resources for an AWS.

2. Requests must be reviewed by Human Resources and the Department of Finance & Risk Management’s Payroll Division for compliance with FLSA and compatibility with the time-keeping system.

3. Upon review and recommendation by Human Resources and the Finance Department, the County Administrator must provide final approval.

IV. RESPONSIBILITY

A. Department

1. An Appointing Authority will determine which of the AWS options, if any, are available to their employees. An AWS is entirely at the Appointing Authority’s discretion.

2. An Appointing Authority must approve an employee’s AWS.

3. An Appointing Authority must ensure that all business operations and services of their Department are available to internal and external customers during regular business hours (8:00 a.m. to 5:00 p.m.) and that the efficiency and effectiveness of the Department’s operations is not adversely impacted. The utilization and assignment of AWS must not result in a change in a Department’s regular hours of operation.

4. Appointing Authorities are responsible to ensure the fair and equitable administration of AWS and records must be maintained and followed under the Fair Labor Standards Act (FLSA) for every non-exempt employee. An employee’s AWS must be documented on an AWS Agreement, approved by the Appointing Authority, and retained by the Department.

5. An AWS can only be changed at the direction of the Appointing Authority. Since the start/end of the work week is different for the 9/80 exempt schedule, it is recommended that the Appointing Authority not change the work schedules more than twice a year, to either coincide with the calendar/fiscal year or the start/end of the school year. If an AWS is changed, a new AWS Agreement must be completed, signed, and retained by the Department. Frequent changes to a 9/80 AWS may result in County Administration rescission of the AWS.

6. An Appointing Authority may eliminate an AWS at any time; however, the Appointing Authority is required to rescind approval of an AWS where an
employee fails to comply with the AWS. When this occurs, the rescission must take effect at the start of a pay period.

B. Employee

1. Once an employee has been notified that they are AWS eligible, the employee may request to work an AWS.

2. The employee is responsible for adhering to their approved AWS. Failure to do so may lead to revocation of the AWS and reinstatement of a standard work schedule.

3. Absent extenuating circumstances and approval of the Appointing Authority in consultation with Human Resources, the employee is not permitted to change their AWS once it has been established. Changing a flex day within a 9/80 schedule is not permitted. However, should the employee wish to return to a standard work schedule, they may do so with the approval of their Appointing Authority.

4. An AWS is a privilege, not an employee right.

5. An AWS is not appropriate for all jobs or all situations. The denial of an employee's request for an AWS is not grievable.

6. Noncompliance with the AWS Agreement by the employee may result in rescission of the AWS Agreement and return to a standard work schedule. Should an AWS Agreement be rescinded for noncompliance, this action is not grievable.

V. ELIGIBILITY

Eligibility determinations are made by the Appointing Authority following the guidelines of this procedure.

VI. STANDARD GUIDELINES

A. The AWS requires that the employee’s schedule be consistent and that the daily schedule have both established starting and ending times that remain the same week after week. All AWS require a completed and signed AWS Agreement retained by the Department.

B. The AWS will not go into effect until the beginning of the pay period after an AWS agreement has been signed by both the employee and Appointing Authority/designee. The signed agreement must be placed into the employee’s Department Personnel File.

C. Unpaid meal breaks cannot be completely eliminated from the daily AWS. A minimum of a 30-minute unpaid meal break is required.
D. Employees must enter their AWS into the time-keeping system and supervisors must review to ensure its accuracy.

VII. ALTERNATIVE WORK SCHEDULES AND USE OF PAID LEAVE

A. Sick Leave and Annual Leave

Sick Leave will be administered in accordance with Personnel Policy 8-106 and Annual Leave will be administered in accordance with Personnel Policy 8-105. Sick and annual leave must be recorded for each scheduled work day an employee is on leave within that work week. If the employee is on an AWS, the employee is required to charge leave accruals for the hours they are regularly scheduled to work. For example, if the employee is on an AWS and scheduled to work a nine (9) hour shift, they must charge nine (9) hours of leave.

B. Bereavement Leave

Bereavement Leave will be administered in accordance with Personnel Policy 8-107. Dependent on the circumstances, full-time employees may receive up to either 24 or 40 hours of bereavement leave. Bereavement leave must be recorded for each regularly scheduled work day an employee is on leave within that work week. If the employee is on an AWS, the employee is required to charge leave for the hours they are regularly scheduled to work. For example, if the employee is on an AWS and scheduled to work a nine (9) hour shift, they must charge nine (9) hours of leave. Similarly, if the employee does not have enough hours of bereavement leave to cover a full day’s work, they would be required to supplement the remaining hours by their other available accrued leave, to include sick, vacation or compensatory time.

C. Holiday Pay and Holiday Benefit

Holiday pay and holiday benefit will be administered in accordance with Personnel Policy 8-102. Cesar Chavez Remembrance Day Leave will be administered in accordance with Personnel Policy 8-107, and applied as follows:

1. Where a holiday falls on a flex day, the employee shall receive time off with pay for eight (8) hours (holiday benefit time off), which must be applied in the same work week.

2. Where a holiday falls on a regularly scheduled 8 hour work day, nothing further is required.

3. Where a holiday falls on a regularly scheduled 9 or 10 hour work day, the employee must supplement the 9 or 10 hour work day with one (1) or two (2) hours of vacation leave, respectively, or with the approval of the Appointing Authority, may work one (1) or two (2) hours extra in the work week.
VIII. **TEMPLATES**

Schedule and agreement templates are available from Human Resources Employment Rights.

IX. **REFERENCES**

Board of Supervisors Policy D 23.18, *Fair Labor Standards Act: Safe Harbor*
Personnel Policy 8-102, *Premium Pay*
Personnel Policy 8-104, *Attendance*
Personnel Policy 8-105, *Annual Leave*
Personnel Policy 8-106, *Sick Leave*
Personnel Policy 8-107, *Special Leaves of Absence with Pay*
Administrative Procedure 3-33, *Telecommuting*
Administrative Procedure 22-16, *Time Worked Record*
Merit System Rule 1, *Definitions*