



We work for America every day

NFFE Forest Service Council

Master Agreement News You Can Use

Originally Released on:

March 11, 2011



Master Agreement Article 18 - Earning Credit Hours

Questions have come up about the proper procedures associated with the earning of credit hours. Here's the relevant contract language (Master Agreement Article 18.3.e.1.(a)) on the earning of credit hours:

Credit hours are earned at the election of the employee. No coercion may be placed on any employee for the purpose of interfering with that employee's right under a [flexible work schedule] to elect a time of arrival or departure and to work or not work credit hours (5 USC 6132). Employees must inform their supervisors in advance of their intent to earn credit hours, including the work they plan to perform and approximate time unless mitigating circumstances prevail; however, supervisors have the right to deny the earning of credit hours if there is no assigned work that may be performed during that time. Employees and supervisors may mutually agree on alternate arrangements for providing notice regarding the earning of credit hours on a continuing basis.

The prohibition on coercion is law; it comes straight out of Section 6132 of Title 5 of the US Code, which reads:

An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours . . .

This means as long as an employee on a flexible work schedule has assigned work to do, that employee can elect to work credit hours. There does not have to be special work, or work that requires more than 80 hours in a pay period. There just has to be assigned work to do. The assignment of work is a management right; however, there should be no difference in how work is assigned for performance during regular work hours and how it is assigned for performance during the earning of credit hours.

With regard to the advance notice, an ongoing arrangement is permissible. If this has worked well, there's no reason it needs to be changed under the new Master Agreement. However, management is within its rights to require case-by-case notice. The following notice is consistent with the negotiated requirements and should take care of any problems you may have been experiencing with the earning of credit hours:

This is to notify you of my intent to earn credit hours this pay period. I expect to earn 8 hours (do not underestimate). I plan to perform the following ongoing assigned duties: [list duties to be performed]

Note that this notice is worded to be just that: a notice. You do not need to ask for permission or approval. It is your right to earn credit hours if you're on Maxiflex, as long as you have assigned work to do and either give proper notice or have an ongoing arrangement with your supervisor. Also note that this example pegs the advance notice on a pay period basis. The Master Agreement is silent on whether notice should be on a pay period, weekly, or even daily basis. It is also silent on the how far in advance notice must be given. It is impossible to cover every contingency in contract language. Here's

Master Agreement News You Can Use

the bottom line--**be reasonable**. If managers and supervisors deal with each other in good faith on this, it works. If not, it will come down to who is acting more reasonable in the eyes of an arbitrator. Don't be the unreasonable party!

The right to earn credit hours is a fundamental one for employees on a flexible work schedule. Flexible work schedules benefit both employees and the agency. Employees benefit by being able to flex their schedules to take care of their personal and family needs. The agency benefits when employees elect to work longer than the standard 8 hours to finish work they are in the middle of performing. If not on a flexible work schedule, they would either need to stop in the middle or the agency could incur overtime costs. The assumption behind the Federal Employees Flexible and Compressed Work Schedules Act of 1982 is that employees will be responsible in taking advantage of these flexibilities such that productivity and the level of service does not suffer. It is important to remember that this responsibility goes hand in hand with the benefit--and that negative consequences can result when it does not.

Know your rights--and your responsibilities! The Master Agreement gives the definitive word on administration of work schedules. It is posted at <http://www.nffe-fsc.org/ma.php>.

If you have questions regarding this, or anything related to the Master Agreement, please submit them via email to: **NFFE FSC MA QA** (in Lotus Notes) or NFFE_FSC_MA_QA@fs.fed.us (internet).

Mark Davis, MA Negotiations Team