**Service agreement on flexible working hours**

between

**Technische Universität Dresden**

represented by the Rector and the Chancellor

and

**Personnel Representation Council of Technische Universität Dresden**,

represented by the Chairperson

Based on the Working Hours Act ([ArbZG](https://www.gesetze-im-internet.de/arbzg/)), the Saxon Working Hours Ordinance ([SächsAZVO](https://www.revosax.sachsen.de/vorschrift/4721-Saechsische-Arbeitszeitverordnung)), the Collective Agreement of the Federal States (in particular §§ 6-10, 40 [TV-L](https://oeffentlicher-dienst.info/pdf/tv-l/tv-l-nr11.pdf)) in conjunction with §§ 81 (2) No. 1, (3), 84 Saxon Staff Representation Act ([SächsPersVG](https://www.revosax.sachsen.de/vorschrift/9184-SaechsPersVG)) in their respective valid versions, the following service agreement on flexible working hours is hereby concluded:

**Preamble**

This service agreement pursues the goal of further developing TU Dresden as a "healthy university" while upholding its unrestricted functionality by giving employees the opportunity to reconcile the allocation of their working time optimally, more transparently and early on with their personal and family-related needs in the interest of protecting their health. The provisions of this service agreement take into account both statutory provisions and established findings from the field of industrial science, thereby also meeting the criteria of a "family-friendly university". This serves to guarantee legal certainty for employees, superiors and department management with regard to compliance with protective regulations and options for structuring working time.

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**I. General**

**§ 1 Scope**

1. This service agreement shall apply to all employees of TU Dresden, i.e. academic staff, including research assistants as defined in § 2 [WissZeitVG](https://www.gesetze-im-internet.de/wisszeitvg/) [*Act on Fixed-Term Academic Contracts*] (excluding part-time student staff) as well as academic support staff, including apprentices and civil servants.
2. The staff of the Faculty of Medicine, professors, deputies of chairs, the Rector, vice-rectors, the Chancellor as well as student and research assistants employed on a part-time basis as defined in § 6 WissZeitVG, and drivers as defined in [PKW-Fahrer-TV-L](https://www.tdl-online.de/pkw-fahrer.html) [*Collective agreement on the working conditions of passenger car drivers of the federal states*] are excluded from the scope of the service agreement.

**§ 2 Definition of terms**

1. Standard working time:

"Standard working time" refers to the working time which results within the framework of the regular average working hours each week, i.e. the contractually owed number of working hours according to the employment or service contract. It is determined by collective or individual agreements and/or civil service regulations, and is 40 hours per week for full-time employees. The standard daily working time is the period of time on which the calculation of time credits or deficits is based; for full-time employees it is eight hours. For part-time employees, the regular number of daily working hours shall be one-fifth of the average weekly working time as agreed upon in the employment contract when distributed over the weekdays Monday to Friday. The supervisor may also – taking into account the employee's interests – agree to a different distribution of the daily working time over the weekdays.

1. Working days/Working time:

In general, the weekdays Monday to Friday (five-day week) are considered working days, with the exception of public holidays. December 24 and December 31 of each calendar year are non-working days. The daily working time – excluding breaks and rest periods – is not to exceed ten hours, with appropriate compensation (§ 3 Sent. 2 ArbZG/ § 4 (4) SächsAZVO).

1. Rest breaks:

For a daily working time exceeding six hours, the work must be interrupted by a rest break lasting a minimum of 30 minutes; for a working time of nine hours or more, the rest break shall last for a minimum of 45 minutes. These rest breaks may be divided into periods of at least 15 minutes each; they may not be taken at the beginning or end of the working time.

1. Rest period:

After the end of the daily working time, an uninterrupted rest period of at least eleven hours must be guaranteed.

1. Working time range (flexitime):

The working time range defines the period during which working time can be credited – from the earliest possible time that work may commence to the latest time that work may end.

1. Functional period:

During the functional period, all organizational units shall be staffed such that their ability to work, to provide information, and their readiness to perform work for internal and external contact persons is guaranteed. This includes opening, service and/or office hours.

1. Time credit, time deficit:

Time credits and time deficits result from the standard daily working times being exceeded or not achieved.

1. Overtime:

Overtime (Ger.: "Mehrarbeit" for civil servants) refers to hours worked as ordered by one's supervisor, which

* exceed the standard working time and have not been compensated within the periods stipulated in the collective agreement or civil service regulations.
* were specified in the duty/shift schedule, but – with reference to the regular weekly working time – have not been compensated for in the shift schedule (§ 40 No. 4 TV-L).
1. Flexitime account

The flexitime account serves exclusively to document the hours worked (time credits or time deficits) within the given period of time. Credit hours cannot be transferred to the working time account (pursuant to § 2 (10)).

1. Working time account

Only supplements converted into time for special forms of work pursuant to § 8 TV-L (e.g. overtime, night work, weekend work, holiday work) and time credits for on-call pay can, at the request of the employee, count towards the working time account in accordance with § 10 TV-L. A long-term account (lifetime work account) pursuant to § 10 (6) TV-L has not been agreed upon.

1. Changing room time:

Time for changing and any cleaning is working time. The prerequisite for such time to be recognized is that the employees are obliged by law, or in individual cases by authority of their supervisor, to wear official or protective clothing and that they actually change their clothes at the place of work.

**II. Working time**

**§ 3 Working time range** **(flexitime)**

1. The working time range (flexitime) is defined as being from Monday to Friday from 6:00 am to 9:00 pm.
2. Within this time period, employees whose duties do not have to be performed in shifts or according to a duty roster or training schedule may, in principle, decide the beginning and end of their working hours at their sole discretion, taking into account the functional period and official concerns. Where this is necessary for reasons of safety, security, insurance-related regulations, or to uphold technical operating workflows and ensure occupational safety, supervisors shall, in agreement with the employees, ensure that several employees belonging to a particular working area (as required, e.g. within a building or on a floor of a building) are present simultaneously.
3. Working on Sundays, nights and public holidays requires that a prior application be submitted to the Personnel Directorate for the initiation of the participatory procedure in accordance with the SächsPersVG, taking into account §§ 9, 10 ArbZG, §§ 2, 8 SächsAZVO. Compensation for special forms of work pursuant to § 8 TV-L remains unaffected by this.
4. Working outside this working time range is generally not permitted. Where absolutely necessary due to official circumstances, working at times and on days other than those defined in § 3 (1) is possible in individual cases, and shall take into account the interests of the employee. The prerequisite for this is mutual agreement between the supervisor and the employee as well as written confirmation of this to all parties involved, as well as a notification (via e-mail) sent to the Personnel Directorate. If no such agreement exists between the supervisor and the employee, the consent of the Personnel Directorate and the Personnel Representation Council is necessary pursuant to § 81 (2) No. 1 SächsPersVG.
5. In the case of part-time employees, § 3 (4) shall also apply to working days which, according to the individual stipulations of their part-time employment relationship pursuant to § 2 (1), are non-working days for them.
6. Unless this has already been provided for in duty or shift schedules, days off or compensatory time off on an hourly basis shall be provided at the earliest possible date as compensation for work performed pursuant to § 3 (3) and (4). The employee's wishes are to be taken into account.

**§ 4** **Functional period**

1. In the interest of smooth workflows, the following functional period shall apply:

Monday to Thursday: 9:00 a.m. – 3:00 p.m.

Friday: 9:00 a.m. – 1:00 p.m.

as well as additional office and opening hours where necessary. Part-time employees shall be deployed according to the scope of their employment.

1. Academic staff shall allocate their working time at their own discretion – insofar as no functional period is required in the organizational unit pursuant to § 4 (1) – in accordance with teaching (in accordance with [DAVOHS](https://www.revosax.sachsen.de/vorschrift/12146-Saechsische-Dienstaufgabenverordnung-an-Hochschulen)), research, and academic self-administration requirements.
2. Regular official duties (conferences, meetings, consultations, office hours, etc.) are generally to be scheduled during the functional period.
3. Where this is justified by official requirements, supervisors may also require the compulsory presence of employees outside of the functional period. This must be communicated in good time – no later than on the previous working day, and in the case of employees with disabilities and those of equal status, no later than three working days in advance. The needs of employees with welfare and care obligations must be taken into account.
4. Modifications to the functional period are permissible if
* there is a temporary, urgent need to maintain the functioning of the organizational unit, or
* a permanent switch to a different functional period pursuant to § 4 (1) is appropriate and necessary for the functioning of the organizational unit.
1. The intended, permanent change in the functional periods must be applied for in advance with the Personnel Directorate through official channels, and requires the approval of the Personnel Representation Council.

**§ 5 Place of work**

1. The place of work is generally the campus or the branch locations of TU Dresden.
2. A separate agreement shall be drawn up to govern remote work.

**§ 6** **Recording of working time / time sheet**

1. Compliance with the provisions of the ArbZG / the SächsAZVO shall be ensured by supervisors in the interest of employees' health and occupational safety.
2. The working time (beginning and end) as well as the rest breaks shall be recorded daily on a time sheet. The period of record shall generally be the calendar month. The use of Annex 1 is recommended for these records. Any additional recording of working time via electronic means is not permitted.
3. Employees are to keep their own truthful records. Employees are required to submit the time sheet to their supervisor on a quarterly basis. Furthermore, supervisors are entitled to request the presentation of the time sheet at any time for the purposes of conducting random inspections. The Personnel Representation Council is also permitted to inspect the time sheets.

**§ 7 Flexitime account; accumulation of time credits and time deficits**

1. In general, employees are to independently monitor their own flexitime account resulting from the records of working time, along with any resulting time credits or time deficits.
2. For full-time employees, time credits may be accumulated up to an amount of 50 hours and carried forward to the following month or next accounting period (calendar year). For part-time employees, the maximum permissible amount of time credits shall be reduced in proportion to the regular weekly working hours (see calculation examples in Annex 2). For research assistants, an upper limit of 50% of the monthly working time shall apply (see calculation examples in Annex 3).
3. Time deficits are not to exceed 20 hours for full-time employment. For part-time employment, the maximum permissible time deficit shall be reduced in proportion to the regular weekly working hours. For research assistants, an upper limit of 50% of the monthly working time shall apply. Time deficits are to be compensated for by working or using credit on the working time account, taking into account the maximum permissible daily working time. It is not possible to waive remuneration/salary or leave entitlements.
4. Employees are to inform their supervisor in good time when they have amassed time credits amounting to 40 hours (for full-time employment). First and foremost, they are to take initiative to prevent the further accumulation of time credits. Supervisors are to provide support with this, where necessary through organizational measures at work.
5. When employees reach the permissible time credit (pursuant to § 7 (2)) or the time deficit (pursuant to § 7 (3)), employees and supervisors shall agree on suitable measures to reduce it at least up to the amount of 40 hours of time credit or 10 hours of time deficit. Supervisors are responsible for ensuring that the reduction is achieved in a timely fashion.
6. Once the maximum time credit or maximum time deficit has been reached, the accumulation of further hours is only permitted with prior consent from the Directorate Personnel. The Directorate Personnel is to inform the Personnel Representation Council.

**§ 8 Compensation of time credits and time deficits**

1. Time credits may only be compensated for with time off, unless they were overtime/overtime hours worked pursuant to an order.
2. In agreement with the supervisor, time credits may be used to take a day off. It is generally possible to consolidate multiple days off, e.g. for block periods when the employer closes the organization. When crediting days off, the respective standard daily working time is used as a basis for calculation.
3. Reducing time credits and taking days off is also possible in conjunction/combination with weekends, public holidays, and leave. If the employee is unfit for work on days where time off is scheduled to be taken, the hours that were not claimed as a result are not to be deducted from the flexitime account.
4. In the event of a termination of the employment relationship or in the event of secondment or transfer, the employee and the superior shall jointly ensure that existing time credits or time deficits are compensated for.

**III. Special regulations**

**§ 9 Business and further training trips**

1. When on business and further training trips, the time spent at the business location away from home for official purposes shall be regarded as working time.
2. Furthermore, the regulations/guidelines of the SMI/SMF [*Saxon Ministry of the Interior and Ministry of Finance*] dated July 10, 2019 shall apply in addition to collective agreements, in particular for travel times (see also [RS D2/1/2020](http://www.verw.tu-dresden.de/VerwRicht/Sachwort/download.asp?file=rsd20120.pdf)).

**§ 10 Time off from work and duties**

1. Visits to government offices, doctor's appointments and other errands are generally to take place outside of the functional period.
2. Time off from work for compelling reasons pursuant to collective agreement provisions (§ 29 TV-L) or civil servant regulations (§ 13 (1) no. 2 [SächsUrlVO](https://www.revosax.sachsen.de/vorschrift/2630-Saechsische-Urlaubsverordnung)) is to be granted during the functional period (§ 4 (1)). The duration of the absence shall then count towards the working time.
3. Apprentices shall be granted leave for a total of five working days to prepare for intermediate and final examinations pursuant to § 14 TVA-L BBiG.

**§ 11 Expectant mothers, young persons under 18 years of age**

Employees covered under maternity leave protection regulations and juvenile employees may only participate in flexitime to the extent permitted by the special legal provisions enacted for that particular group ([Maternity Protection Act (MuSchG)](https://www.gesetze-im-internet.de/muschg_2018/), [Saxon Holiday, Maternity Protection and Parental Leave Ordinance (SächsUrlMuEltVO)](https://www.revosax.sachsen.de/vorschrift/13861-Saechsische-Urlaubs-Mutterschutz-und-Elternzeitverordnung-), [Youth Employment Protection Act (JArbSchG)](https://www.gesetze-im-internet.de/jarbschg/)).

**§ 12 On-call duty and shift work**

1. On-call duty and shift work are determined by the organizational units in consultation with the Directorate Personnel. An overview of the organizational units with on-call duty and shift work is provided in Annex 4. In the event of any changes, the Directorate Personnel and the Personnel Representation Council are to be notified in advance.
2. On-call duty is defined in § 7 (4) of the TV-L as situations where employees, complying with orders from the department head, are required to be available outside regular working times at a location to be reported to the employer in order to commence work when called up by the department head or a representative. The calculation of time bonuses pursuant to § 8 (5) in conjunction with (1) a) of the TV-L can be performed using the Form for recording and invoicing working time (Annex 1).
3. When on-call employees are called to duty, the time of the call with the request to appear for duty shall be considered as the start of the working time. Tasks on the PC or telephone shall also be regarded as working time. The end of the working time is the point in time of return to the location from which the employees were called to duty. In individual cases, the maximum working time of 10 hours per working day may be exceeded due to the working time during on-call duty.
4. A rest period of eleven hours shall be observed in any case. If the rest period is interrupted by a job assignment, work is only to resume after an uninterrupted rest period of eleven hours. The time between the end of the assignment during on-call duty and the end of the rest period shall be remunerated.

**§ 13 Shift work and scheduling of on-call duty**

1. Shift work or on-call duty is to be scheduled in an annual plan. The planning is to be based on the monthly working time agreed upon in the employment contract. The working time shall be scheduled in a contiguous fashion.
2. Each employee shall be entitled to a minimum of six free weekends per calendar quarter. Weekends before and after employees' leave shall be scheduled as being off-duty for them. A weekend in the aforementioned sense shall be the period from Friday after the end of the functional period to Monday before the start of the functional period.
3. Personal wishes and concerns of employees shall be taken into consideration for the annual planning. Operational planning options and the interests of other employees are to be taken into account.
4. The drafts of the annual plans are to be submitted no later than by November 1 of the previous year to the Personnel Representation Council via the Directorate Personnel, which is to be involved in the decision. The draft annual plan must indicate the standard working times and the planned deployment times of the individual employees.
5. Upon being approved by the Personnel Representation Council, the draft annual plan shall become binding. It shall be disseminated to all involved employees no later than by December 1 before the beginning of the of the duty roster period.
6. If the Personnel Representation Council refuses to approve it, the department and the Personnel Representation Council shall enter into negotiations immediately with the aim of reaching an agreement. If no agreement is reached within ten working days, the "tiered procedure" (*Stufenverfahren*) pursuant to the SächsPersVG shall be initiated without delay.
7. Modifications to shift and on-call duty rosters are permitted under the following conditions:

- Employees may swap shifts/duties with each other for personal reasons, taking into account operational concerns;

- Supervisors may make changes to duty rosters in the event of operational necessity, e.g. due to illness, leave, or at the request of the employee. Employees are to be informed of such changes at least 48 hours in advance.

**IV. Final provisions**

**§ 14 Violations of these regulations**

1. With the introduction of flexible working time, a certain degree of trust is placed in the employees. Each and every employee is obliged to comply with the service agreement on their own responsibility and to monitor their working time data, and is personally responsible for the accuracy of this information.
2. Incorrect records (i.e. factually incorrect, retroactively falsified or incomplete entries) constitute a breach of the duties under the employment contract or misconduct and, in addition to measures under labor law, civil service law, and criminal law, may also result in exclusion from this service agreement.

**§ 15 Transitional provisions**

Time credits or time deficits exceeding the upper limits which existed at the time of entry into force of this service agreement shall be reduced to the quantity agreed upon within six months, in accordance with § 7 (2) and (3).

**§ 16 Severability clause**

1. Should individual provisions of this service agreement be or become ineffective, the remaining provisions shall still apply.
2. In such cases, both parties are obliged to agree on an effective provision that comes as close as possible in meaning to the invalid provision.

**§ 17 Entry into force, termination, survival clause**

1. This service agreement shall come into force on the date of its signature.
2. The service agreement will be evaluated two years after its entry into force.
3. It can be terminated by either party in accordance with § 84 SächsPersVG. Upon receipt of the notice of termination, negotiations on a new agreement shall be commenced without delay. After a termination, the provisions of this service agreement shall continue to apply until a new service agreement is signed. Amendments by mutual consent can be made at any time.

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