

Points to Consider
When Implementing a Higher Education Mandatory Furlough under
Proviso 6.24 and Section 8-11-193 of the SC Code of Laws

Eligibility

Agency

- If the general funds appropriated for the institution of higher learning are less than the preceding fiscal year or when the General Assembly or the Budget and Control Board implements an across-the-board budget reduction, the agency head may institute a mandatory furlough program for the entire agency.
- A mandatory furlough program cannot be enacted if an agency's reduction is due solely to the General Assembly transferring or deleting a program.
- A mandatory furlough program may be instituted for not more than twenty working days, which can be taken in full or partial day increments, in a fiscal year at the discretion of the agency head.
- The scheduling of mandatory furlough days shall be at the discretion of the agency head. The agency may designate specific days for the furlough or allow employees to choose furlough days during a specific period of time.
- OHR encourages agencies to research any restrictions on federal or other funds associated with positions before implementing a furlough. In some instances, federal laws associated with funding for certain programs may prohibit employees from participating in mandatory furlough. In those situations if a position is only partially federally funded, the mandatory furlough may be prorated.

Employees

- The furlough program must be:
 - (1). inclusive of all employees in the agency or within a designated department or program regardless of source of funds, place of work, or tenure status and must include employees in classified positions, unclassified positions, as well as agency heads; or
 - (2). based upon pay band for classified employees and based upon pay rate or unclassified employees within the agency or designated department or program area respectively.
- Law enforcement, employees who provide direct patient or client care, and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. The agency will have the discretion to define who constitutes a front-line employee.
- If the furlough includes the entire agency, agency heads must be included in the mandatory furlough program.
- Agencies *may allocate non-exempt employee's* reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. The reduction in pay should not be spread over the balance of the fiscal year for temporary employees.

Benefits

- The employee is entitled to receive the same State benefits as otherwise available to them with the exception of receiving their salary.
- State agencies are responsible for making both employer and employee contributions for State benefits if coverage would be lost due to the mandatory furlough. This applies to benefits which require employer and employee contributions. *Agencies will be required to pay both the employee and employer retirement contributions on missed wages due to the furlough.*
- The employee remains responsible for making contributions that require only employee contributions.
- An employee will continue to accrue annual and sick leave as if he were in pay status.
- If a holiday falls during the mandatory furlough period, the employee should be paid for the holiday.

Other Implications

- The placement of an employee on mandatory furlough does not constitute grounds for a grievance or appeal under the State Employee Grievance Procedure Act.
- An employee's state hire date and continuous state service date will not be adjusted.
- An employee's performance review date will not be adjusted; however, an agency should take into consideration an employee's review date prior to implementing a mandatory furlough program for evaluation conference purposes.
- The Office of Human Resources and the Comptroller General's Office recommend the following method for determining the amount of salary reduction:
(hourly rate x number of hrs. in avg. work day) x (number of days furloughed)
The hourly rate should include the total compensation earned by the employee.
- An employee may be eligible for weekly unemployment compensation if during the week the employee earns less than their maximum weekly benefit amount. For more information on furlough and unemployment compensation, please contact the Employment Security Commission.
- Section 41-10-30 of the SC Code of Laws requires that an employee have notice of any changes to the employee's wages and hours in writing at least seven days before the effective date of the change; therefore, the agency should make sure that seven days have passed between notification of the furlough program and the payroll effective date of any salary reductions.
- The United States Department of Labor Regulations (20 CFR 655.731) does not allow the wages of employees working on a H1B visa to be reduced through a mandatory furlough. They can, however, participate in a voluntary furlough.

Documentation and Reporting

- Agencies must be able to provide the following information to the Office of Human Resources throughout the fiscal year and provide a written report prior to September 1st of the following fiscal year:
 1. Total number of employees who have participated in the furlough program,
 2. Total number of furlough days,
 3. Estimated cost savings.
- Agencies should maintain internal documentation for record-keeping purposes.

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