

Points to Consider

When Implementing a Mandatory Furlough under Section 8-11-192 of the SC Code of Laws

Eligibility

Agency

- If the general funds appropriated for a state agency are less than the preceding fiscal year or if the General Assembly, or in a fiscal year in which an agency that is funded by other funds projects other funds collections to be less than in the prior fiscal year, or whenever the Budget and Control Board implements an across-the-board budget reduction, the agency head may institute a mandatory furlough program.
- 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 ten 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.
- The agency may not close completely during its regular hours of operation.
- 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 an agency or within a designated department or program regardless of source of funds or place of work, including all classified and unclassified employees in the designated area; or
 - (2) based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively.
- A mandatory furlough must be inclusive of time-limited project, temporary grant, and temporary employees in the agency, or designated department or program.
- If the state agency will incur costs for overtime under the federal Fair Labor Standards Act, law enforcement employees and correctional employees may be exempted from a mandatory furlough. In addition, employees who provide direct patient or client care and front-line employees who deliver direct customer services may be exempted. The agency will have the discretion to define who constitutes a front-line employee.
- Agencies may allocate the employee's reduction in pay as the leave is taken or spread the amount over the balance of the fiscal year for payroll purposes, regardless of the pay period in which the mandatory furlough occurs. The reduction in pay should not be spread over the balance of the fiscal year for temporary employees.

- The agency heads, with the exception of constitutional officers, must be included in the mandatory furlough. Constitutional officers are exempt from mandatory furlough.

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 agency may elect to spread the reduction in pay over any number of pay periods remaining in the fiscal year. If an employee separates from the agency during the fiscal year, it is the agency's responsibility to reconcile any salary reduction with the amount of leave taken for a mandatory furlough.
- 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 in 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.
- If a mandatory furlough is implemented based on pay band and/or payrate, temporary, temporary grant and time-limited project employees would have their furlough days based on their classification's pay band or on their payrate if assigned to an unclassified state title as would other employees in the agency or designated department.

- The United States Department of Labor Regulations (20 CFR 655.731) does not allow the wages of employees working on a H-1B 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.

OHR

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