admin
THE SOUTH CAROLINA
DEPARTMENT of ADMINISTRATION

Furlough Information Summary

Mandatory Furloughs

Implementation

- An agency may implement a mandatory furlough program if the general funds appropriated for a State agency, institution or department are less than the general funds appropriated for that State agency, institution or department in the preceding fiscal year, 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 General Assembly or the Executive Budget Office implements a midyear across-the-board budget reduction.
- The agency head will determine whether to implement a mandatory furlough program.
- The agency may specifically designate the days to be taken for the furlough or the agency may allow employees to request the days for the furlough. Ultimately, the scheduling of furlough days or portions of days, shall be at the discretion of the agency head.
- Legislation allows mandatory furlough programs implemented by state agencies, excluding those implemented by institutions of higher learning and technical colleges, to be based upon pay bands for classified employees and pay rates for unclassified employees within the agency or designated department respectively. For example, an agency could require a higher number of furlough days for classified employees in pay band 7 and above and unclassified employees with a pay rate of $70,000 and above within the agency or within a designated department than employees in band 6 and below or unclassified employees with a pay rate of $69,999 and below within the agency of designated department.
- S.C. Code Section 41-10-30 requires that an employee have notice of any changes in wages and hours in writing at least seven (7) days before the effective date of the change; therefore, the agency should make sure that seven (7) days have passed between notification of the furlough program and the payroll effective date of any salary reductions.
- An agency can spread out the reduction in pay across several pay periods or over the balance of the fiscal year regardless of the pay period within which the furlough occurs under the provisions of the S.C. Code Section 8-11-192. The reduction in pay should not be spread over the balance of the fiscal year for temporary employees. Regardless of the method chosen by the agency, there are FLSA implications for exempt employees.
- The exempt status of employees is affected by a furlough if the employees furloughs and their pay is reduced. If the agency spreads out the reduction in pay across several pay periods or over the balance of the fiscal year, the exempt status may be affected during the entire period the pay is reduced.

Eligibility/Participation

- Mandatory furlough programs 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 upon pay rate for unclassified employees within the agency or designated department respectively. Agency heads, with the exception of constitutional officers, must be included in the mandatory furlough. Based on the eligibility criteria set by the agency, temporary, time-limited project, and temporary grant employees must be included.
- State agencies, excluding institutions of higher learning and technical colleges, may exempt law enforcement employees and correctional employees from participation in a mandatory furlough program if the state agency would incur costs for overtime under the federal Fair Labor Standards Act. In addition, 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.
- An agency head may institute a mandatory furlough for not more than ten (10) working days in the fiscal year of the deficit.
- A mandatory furlough may be taken in full or partial day increments; however, an agency may establish guidelines that determine the smallest increments in which mandatory furlough may be taken by an employee.
- The United States Department of Labor Regulations (20 CFR 655.731) do not allow the wages of employee authorized for work through an H-1B visa to be reduced through a mandatory furlough. These employees can, however, participate in a voluntary furlough.
- In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily must count toward furlough days required by the mandatory furlough. For example, if an employee takes three days under an agency's voluntary furlough program and later in the fiscal year the agency requires employees to take five days under a mandatory furlough program, the employee would only be required to take two mandatory furlough days.
- DSHR 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.

Benefits

- During a mandatory furlough, State employees are entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits which require employer and employee contributions, State agencies, institutions and departments will be responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee will be responsible for making those contributions.

- An agency is required to pay the employee and employer contributions for retirement when an employee participates in a mandatory furlough. Please see the memo from the South Carolina Retirement System for details.
- An employee may be eligible for unemployment benefits with the South Carolina Department of Employment and Workforce while on a mandatory furlough. Employees should contact the South Carolina Department of Employment and Workforce for further details or information on unemployment insurance.
- An employee will continue to accrue annual and sick leave while on mandatory furlough.
- If a holiday falls during the mandatory furlough period, employees are paid for the holiday.
- An employee's performance review date will not be adjusted during a period of mandatory furlough.
- A mandatory furlough does not affect an employee's State service date or continuous service date.
- Individuals affected by a mandatory furlough do not have grievance or appeal rights under the State Employee Grievance Procedure Act.

Reporting

- An agency must report the following information on employees who participate in the mandatory furlough to the Division of State Human Resources prior to September 1st of the following fiscal year:
    - Total number of employees who participated in the mandatory furlough program
    - Total number of mandatory furlough days
    - Estimated cost savings associated with the mandatory furlough program

Mandatory Furlough Programs (Higher Education Institutions)

- An institution of higher learning may institute an agency-wide employee furlough program for not more than twenty (20) working days in the fiscal year.
- The State Board for Technical and Comprehensive Education, through policy and procedure for the Technical College System, may institute employee furlough programs of not more than twenty (20) working days in the fiscal year in which the deficit is projected to occur. Once the State Board for Technical and Comprehensive Education develops a policy, an individual technical college may implement a mandatory employee program based on this policy.

Voluntary Furlough

Implementation

- The agency head will determine whether to implement a voluntary furlough program.
- The agency and participating employee must mutually agree upon when the voluntary furlough days will be taken.

Eligibility/Participation

- Employees in FTE positions, time limited positions, and temporary grant positions are eligible to participate in a voluntary furlough.
- An employee may voluntarily furlough up to 90 work days per fiscal year.
- A voluntary furlough may be taken in full or partial day increments; however, an agency may establish guidelines that determine the smallest increments in which the voluntary furlough may be taken by an employee.
- S.C. Code Section 41-10-30 requires that an employee have notice of any changes in wages and hours in writing at least seven (7) days before the effective date of the change; therefore, the agency should make sure that seven (7) days have passed between notification of the furlough program and the payroll effective date of any salary reductions.
- Furlough days taken under a voluntary furlough program must be counted towards furlough days required through a mandatory furlough program. For example, if an employee takes three (3) days under an agency's voluntary furlough program and later in the fiscal year the agency requires employees to take five (5) furlough days through a mandatory furlough program, the agency may require that the employee only take two mandatory furlough days. If the mandatory furlough is implemented under S.C. Code Section 8-11-192, voluntary furlough days must be counted toward the furlough days required by a mandatory furlough.
- DSHR 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 voluntary furlough. In those situations if a position is only partially federally funded, the voluntary furlough may be prorated.

Benefits

- During a voluntary furlough, State employees are entitled to participate in the same state benefits as otherwise available to them except for receiving a salary. Benefits which require employer and employee contributions, State agencies, institutions and departments will be responsible for making both employer and employee contributions if coverage would otherwise be interrupted. Benefits which require only employee contributions, the employee will be responsible for making those contributions.
- An employee may be eligible for unemployment benefits with the South Carolina Department of Employment and Workforce while on a voluntary furlough. Employees should contact the South Carolina Department of Employment and Workforce (http://www.dew.sc.gov/) for further information.

- An employee will continue to accrue annual and sick leave while on voluntary furlough.
- If a holiday falls during the voluntary furlough period, the employee is paid for the holiday.
- An employee's performance review date will not be adjusted during a period of voluntary furlough.
- A voluntary furlough does not affect an employee's State service date or continuous service date.
- Individuals affected by a voluntary furlough do not have grievance or appeal rights under the State Employee Grievance Procedure Act.

Reporting

- DSHR may request an agency to report the following information on employees who participate in a voluntary furlough to the Division of State Human Resources (DSHR) prior to August 15 of the following fiscal year:
- Total number of employees who participated in the voluntary furlough program; and
- Total number of voluntary furlough days taken by agency employees.
- Estimated cost savings associated with the voluntary furlough program.
- An agency should maintain internal documentation regarding an employee participating in a voluntary furlough program for recordkeeping purposes, including a written request by employees to participate in the program.