

## Frequently Asked Questions: Furloughs

Updated: April 16, 2020

### General

#### What is a furlough?

A furlough is mandated, temporary, unpaid leave of absence from work taken as a result of a lack of funding and/or shortage of work. For the reduction in hours to constitute a furlough, it must be an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period. Otherwise, it is considered a reduction-in-force or an involuntary reduction in hours.

#### What is the difference between a furlough, a reduction-in-force and an involuntary reduction in hours?

A furlough is an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period of time. Generally, furloughs are due to a *temporary* lack of funding and/or shortage of work.

A reduction-in-force (RIF) is the elimination of a position or category of positions due to a lack of funding, shortage of work, or reorganization.

An involuntary reduction in hours is a reduction of hours for a specific position or several positions, but not an equal reduction for all classifications (which would be a furlough). An involuntary reduction in hours is administered the same way as a reduction in force (i.e., retention points are calculated and the individual with the fewest retention points would be the one who takes the reduction in hours).

#### Who has the authority to mandate a furlough?

The Governor and/or an agency appointing authority has the authority to mandate a furlough.

## **What is the process for mandating a furlough?**

Agencies should consult with DHR, DFM and the Governor's Office prior to mandating a furlough for employees.<sup>1</sup>

If it is determined that a furlough is appropriate, agencies need to:

- 1) Determine which classifications will be affected (agencies must request an exemption through DHR if any individuals will be excluded);
- 2) Conduct an analysis to ensure that their process does not discriminate against any protected categories;
- 3) Determine the amount of hours that will be required due to the lack of work and/or budgetary constraints and the effective date;
- 4) Determine how the furlough will be implemented (i.e., if employees can elect which days to take off or if the days will be the same for the entire agency);
- 5) Ensure that essential services can still be provided in a timely manner during a furlough;
- 6) Submit their proposal to DHR and DFM for review; if approved,
- 7) Develop a communication plan for employees and managers; and
- 8) Develop a communication plan and strategy for individuals seeking services from the agency (i.e., if employees will be required to take the same day agency-wide, how visitors be notified of office hours, etc.)

## **Can certain employees be excluded from a furlough?**

Yes. Agencies must request an exemption from DHR to exclude specific employees from a furlough. The request should include: 1) details about the furlough (i.e., purpose, affected classifications, amount of hours required, anticipated fiscal impact, etc.); 2) specific individuals and job classification for the individual the exemption is being requested for; and 3) justification for the exemption.

## **Does an employee's Fair Labor Standards Act (FLSA) status impact our ability to furlough them?**

Agencies should refer to the Department of Labor guidance regarding furloughing employees in accordance with their FLSA status. More information is available here: <https://www.dol.gov/agencies/whd/fact-sheets/70-flsa-furloughs>

## **How is a furlough implemented? Is there an official notification that must be provided to employees and/or due process requirements?**

---

<sup>1</sup> Governor Little's March 27, 2020 letter requires executive branch agencies obtain prior approval from DFM/DHR for any layoffs or furloughs.

Due process procedures identified in IDAPA rules do not apply to furloughed employees because it is not a disciplinary action. DHR recommends providing employees with a letter informing them of the furlough and the required hours they must take without pay and the effective dates.

Additionally, agency leadership should develop a communication plan for the agency and impacted employees. Prior to communicating to the agency and/or employees, agencies should first consult the Governors' Office, DHR and DFM.

### **How does the FFCRA apply to furloughs after April 1, 2020?**

If an employee is on paid sick or expanded family and medical leave at the time of a furlough, furloughed employees are no longer entitled to paid sick leave or expanded family and medical leave but may be eligible for unemployment insurance. When the furlough is ended, employees may be eligible for paid sick or expanded family and medical leave if they meet the qualifications.

### **How is a furlough implemented for non-classified employees?**

Agencies should follow the same or similar process to mandate furloughs for non-classified employees as classified employees. Reference Idaho Code § 59-1603(1) "To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications in consultation with the division of human resources."

### **Who decides how many days and which days to require employees to take as a part of their furlough?**

The Governor and/or appointing authority in consultation with other appropriate parties, such as agency HR/Fiscal, DHR, DFM, and legal.

### **Are part-time employees and temporary employees subject to furlough requirements?**

For part-time classified (non-temporary) employees, the amount of hours should be pro-rated.

Temporary employees are not entitled to any specific amount of work hours. Therefore, managers and supervisors should schedule them accordingly, which may result in fewer hours scheduled or the end of their temporary assignment. Agencies may also consider ending temporary appointments if the agency no longer requires their services.

### **If an employee is paid from a federal grant rather than by state general or dedicated funds, can they be excluded from a furlough?**

Agencies should consult with DHR and DFM to determine if this is appropriate on a case-by-case basis.

**Does a furlough apply to contracted employees (i.e., employees hired through ProPeople)?**

Your workers are contractors, not employees of the agency. Therefore, the furlough does not apply. However, your agency may need to consider reducing their hours to meet budgetary constraints as well.

**Must furlough hours be taken prior to a specific date?**

Yes. The date will be determined either by the Governor and/or appointing authority depending on the situation.

**Employee Benefits**

**Does a furlough impact employee benefits and/or insurance premiums?**

Potentially. Agencies should contact the Office of Group Insurance to determine if their furlough plan will impact employee insurance benefits.

**How does a furlough affect employees' leave accruals?**

Benefit eligible employees earn sick and vacation leave for each hour worked or paid (excluding compensatory time taken). Therefore, employees will not accrue vacation or sick leave for furlough hours.

**Are employees who are required to take a furlough eligible for unemployment insurance benefits?**

It depends. Agencies should consult with the Idaho Department of Labor on the specific details regarding their furlough plan to determine appropriate guidance for employees.

**Timesheet Coding**

**How should COVID-19 related furlough hours be coded on timesheets?**

Any furlough related to COVID-19 should be coded to LWC.

**Miscellaneous**

**If an employee already took unpaid leave, would that count towards their furlough hours?**

Generally, no. However, agencies should consult with DHR/DFM to determine the appropriateness depending on the specific situation.

**Can employees use accrued leave during their furlough hours?**

If the purpose of the furlough is to address budgetary constraints, the employee may not use accrued leave. If the purpose of the furlough is due to lack of work, employees may use accrued leave, as approved by their agency.

**If an employee is off work on FMLA leave, may they take unpaid FMLA and count that leave towards their required furlough hours?**

Employees on FMLA are subject to the same requirements as all other furloughed employees. However, a furlough day will not count against the employees FMLA entitlement whether paid or unpaid. The time should be coded as a furlough day and once the furlough requirement is met, the employee will continue on FMLA.

**What happens if some employees have not taken the required furlough hours by the required date?**

Supervisors are responsible for ensuring that employees meet this requirement.

**If an employee is hired after a furlough is mandated, are they subject to the furlough requirement?**

Yes. Agencies should develop a pro-rated schedule depending on when employees are hired (for example, if employees are required to take 3 days between April 1 and June 30, and an employee is hired in May then that employee would be required to take 2 days).