

## **Points to Consider**

### **When Implementing a Higher Education Mandatory Furlough Section 8-11-193 of the SC Code of Laws**

#### **Eligibility**

##### **Institution**

- 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 Executive Budget Office implements an across-the-board budget reduction, the agency head may institute a mandatory furlough program for the entire institution.
- A mandatory furlough program cannot be enacted if an institution'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 institution may designate specific days for the furlough or allow employees to choose furlough days during a specific period of time.
- The State Human Resources Division 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 inclusive of all employees in the institution 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.

##### **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 institution should take into consideration an employee's review date prior to implementing a mandatory furlough program for evaluation conference purposes.
- The Division of State 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 Department of Employment and Workforce.
- 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 institution 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 Division of State Human Resources throughout the fiscal year and provide a written report prior to September 15th of the following fiscal year:
  1. Total number of employees who have participated in the furlough program,
  2. Total number of furlough days; and
  3. Estimated cost savings.
- Agencies should maintain internal documentation for record-keeping purposes.

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