



Issued: 9/22/09  
Revised: 4/12/10

## **May 28, 2010 Furlough FAQs**

### **1. Who is subject to the May 28<sup>th</sup> furlough?**

- Most salaried employees in Executive Branch Agencies regardless of the source of funds supporting their positions. (Agency Heads, At-Will, Classified)

### **2. Who is NOT subject to the May 28<sup>th</sup> furlough?**

- Wage employees in Executive Branch agencies. (Agencies must manage wage hours to ensure that budget reduction requirements are met.)
- Employees in the Judicial and Legislative Branches of government who are subject to their appointing authorities' decisions with respect to budget reduction plans.
- Employees in Independent Agencies (State Corporation Commission, VA Lottery, Virginia Retirement System, Workers Compensation Commission, VA College Savings Plan, and the VA Office for Protection and Advocacy) who are subject to their appointing authorities' decisions with respect to budget reduction plans.
- H1-B Visa employees. Federal Department of Labor (DOL) and US Customs and Immigration Services (USCIS) regulations preclude furloughing employees holding these visas.

*NOTE: Institutions of higher education have the option of utilizing the one day furlough but are still required to achieve the equivalent projected savings.*

### **3. Are employees whose positions are funded entirely by federal grants or other special funding sources subject to the furlough?**

- Yes.

### **4. Law enforcement personnel will be allowed to take an alternate furlough day. Who are "law enforcement personnel" and who determines when the alternate day will be?**

- For purposes of the furlough day, law enforcement personnel are state employees eligible for the VaLORS and SPORS retirement plans.
- Agencies must submit proposed alternate date plans to their cabinet secretaries. The Governor's Office will oversee the review and approval process.

- 5. Will all 24/7 facilities be allowed to schedule alternate furlough dates?**
  - Yes, but agencies must submit proposed alternate date plans to their cabinet secretaries. The Governor's Office will oversee the review and approval process.
- 6. Must an alternate furlough day be taken by June 9, 2010 so that the salary reduction can be taken on or before the June 16, 2010 paycheck?**
  - Yes. Savings resulting from the furlough must be captured in the current fiscal year.
- 7. Employees have alternate work schedules, yet all will lose "one day of pay" as a result of the furlough. How is "one day" defined?**
  - State policy recognizes alternate work schedules and defines a standard workday to be 8 hours. The outcome of the furlough will result in a loss of pay equivalent to 8 hours (or, for a typical employee, 1/12<sup>th</sup> of an employee's semi-monthly salary).
- 8. What if May 28<sup>th</sup> is an employee's regularly scheduled day off?**
  - The employee must be assigned an alternate furlough day and not work eight hours on that day.
- 9. Will employees not be subject to Temporary Workforce Reduction (TWFR) in a successive 365-day period calculated from the final day of his or her TWFR-altered schedule?**
  - The Governor's Reduction Plan supersedes human resource policy. Employees may not be furloughed again before May 29, 2011 unless the Governor implements an additional TWFR day or days after May 28, 2010.
- 10. Can an agency implement additional furloughs to address budgetary problems?**
  - No. Additional employee furloughs are not permitted.
- 11. May an employee volunteer to work on his/her Furlough Day?**
  - No. Employees are not permitted to work in any capacity while on furlough.
- 12. Will any employees be required or permitted to work *extra* hours during the workweek in which they are furloughed?**
  - In order to support the goal of the furlough to reduce personnel costs, this situation should be limited to unforeseen emergencies.

- If agencies permit or require FLSA non-exempt employees to work extra hours, they must compensate them for the additional work by paying time and one-half for hours actually worked over 40 in the workweek.
- The FLSA requires that normally exempt employees will also have to be paid at a time and one-half rate for extra hours worked over 40 in the furlough workweek. Where no other workweek has been established, the workweek begins at 12:01 a.m. Sunday, and ends at midnight Saturday.

**13. What if an exempt employee is at or near the FLSA \$23,660 minimum salary threshold and the furlough causes them to fall below it?**

- An employee's exempt status is lost for the workweek when the furlough occurs, but is otherwise unaffected.

**14. Will agencies be required to provide the employee notification as outlined in the TWFR policy?**

- Agencies must provide a 30-day advance notice to employees affected by the furlough day. The notice must include any specific flexibilities approved for the agency based on its mission and operating schedule (e.g., 24/7 facilities).

**15. Are agencies expected to close on May 28, 2010?**

- To the extent possible, administrative agencies should plan to close on May 28<sup>th</sup>.
- Public Health, Public Safety, and Higher Education agencies will implement the furlough in accordance with plans approved by their cabinet secretaries.

**16. Is the furlough tied to positions or to employees? For example, if an employee serves his/her furlough day and soon after resigns from state service has the furlough requirement for that specific *position* been fulfilled?**

- The intent of the furlough is person-based, so that all employees are affected equitably.
- No employee may be furloughed for more than 8 hours. If an employee transfers from one agency to another in the interim, the HR office must document and inform the receiving agency whether or not the employee has met the furlough requirement.
- Exception: Agencies that must submit individual implementation plans for cabinet approval (24/7 operations, higher education, etc.) will be implementing the furlough well in advance of May 28<sup>th</sup>, and over an extended period of time. These agencies may need to use a position-based approach to avoid scheduling disruptions and overtime costs that could negate intended savings from the furlough.

**17. Can agencies permit employees to split the 8 hour furlough over two pay periods?**

- Yes, subject to the agency head's approval this may be done at the agency's discretion in order to reduce the financial hardship on agency employees.
- This approach must be applied equitably; it may be limited to certain employee groups (e.g., employees in Pay Bands One and Two) so long as similarly situated employees are treated uniformly.
- Agencies will be responsible for tracking employees' remaining furlough obligations.
- The two periods must be completed by June 9, 2010.

**18. If an employee leaves state service prior to his/her assigned furlough day must one day of pay be deducted from the employee's final paycheck or annual leave payment?**

- No, their final payments may not be reduced for this purpose.

**19. Will the May 28<sup>th</sup> furlough be transacted in PMIS?**

- No, PMIS transactions will not be required as a result of the furlough.
- Agency Human Resource departments must document and track the furlough hours for their agencies to ensure that the furlough requirements are met.

**20. Must the loss of pay occur during the pay period in which the employee serves their assigned furlough day?**

- Yes, the employee's pay must be reduced during the same pay period in which the employee is furloughed.

**21. Will the loss of pay be prorated for Part-Time and Q Status employees?**

- For Part-Time and Q-Status employees, the reduction should be 1/12 of the employee's normal salary for the pay period when the furlough occurs. These employees' salaries are already prorated, so no further adjustment is necessary.
- If the employee is scheduled to work regular hours, five days per week, the employee should be furloughed for one workday.
- If the employee works irregular hours, the employee should be furloughed a number of hours equal to the average that (s)he works each day, or 8 times the employee's percent time if the employee works 12 months per year.
- If an employee is furloughed for less than a full workday, the employee will have to report for the non-furlough hours, adjust his/her schedule to work the hours another day, or take paid (or unpaid) leave.

**22. How will 9-10-11 month employees be affected by the furlough?**

- Employees in this status should experience a salary loss comparable to Full-Time, Q-Status, or Part-Time employees.
- To accomplish this, the 9-10-11 month employee's annual salary should be reduced by 1/12 of 1/24, or 0.3472% of the employee's annual salary.
- The full amount of the reduction should be taken from the paycheck for the pay period when the furlough occurs, regardless of the employee's pay schedule.
- The number of hours to furlough the employee is computed by dividing the number of months that the employee is scheduled to work by 12 and multiplying the result by 8. For example, a 9-month employee will be furloughed 6 hours (9/12\*8).
- If an employee is furloughed for less than a full workday, the employee will have to report for the non-furlough hours, adjust his/her schedule to work them another day, or take paid (or unpaid) leave.

**23. Are 9-10-11 month employees whose contract or work year ends prior to May 28<sup>th</sup> still subject to the one day furlough?**

- Yes, if they work for an institution of higher education that has chosen to utilize furloughs.
- The employee must be assigned an alternate furlough day to be served prior to the end of their contract or work year.

**24. Can one employee take a second furlough day and donate that time and loss of pay to help another employee who is having financial difficulty?**

- No. Each employee is limited to one furlough day.
- The prospective effective date was chosen to give employees time to save for the loss of pay.

**25. The savings calculations are based on the salaries of current employees. Is there a cutoff date for new hires which exempts them from the furlough?**

- Employees hired on or before May 28, 2010 are subject to the furlough.

*NOTE: Information about the furlough, including the employee's furlough date, should be included in the on-boarding process for new employees.*

**26. If an employee serves his/her furlough day prior to May 28<sup>th</sup> and then transfers to an agency observing the furlough on May 28<sup>th</sup>, must the employee lose another day's pay?**

- No.
- If the employee's new agency is closed on May 28<sup>th</sup>, the employee should be allowed to telework or schedule-adjust to work his/her normal hours. If telework and schedule adjusting are not feasible, the employee should be allowed to use personal paid leave.

- Agencies should inform the receiving agency that the employee has already fulfilled the furlough requirement.

**27. If the employee reports to work on the designated furlough day, or does not take the furlough time, can they legally be docked? Could they be disciplined or terminated?**

- The furlough is required. Employees who report to work on their designated furlough day must not be allowed to work.
- If it is discovered that an employee worked on his/her designated furlough day, he/she must be paid and must be assigned a new furlough day.
- An employee and the employee's supervisor may be disciplined under the Standards of Conduct for failure to observe a designated furlough day.

**28. What if the employee is scheduled to work 12 hours on May 28<sup>th</sup> or the alternate day that is selected; will that employee either have to report for four hours, adjust his/her schedule, or take four hours of paid (or unpaid) leave?**

- Yes. This approach is similar to that applied to emergency closings and holidays. For full-time employees, the furlough day is 8 hours just as a holiday is 8 hours.

**29. Can a day of Leave without Pay (LWOP) be credited to the furlough day?**

- The term "leave without pay" is used generically to describe variable situations. One day of unpaid leave from work does not meet the definition of LWOP under policy. A one-day unpaid absence is referred to as a "docking."
- Employees who experienced a docking for inadequate leave balances or for disciplinary reasons on a day other than their scheduled furlough day may *not* substitute that time for the one-day furlough.
- Employees on approved LWOP for military, educational, FMLA, etc., purposes on their scheduled furlough day will have met the intent of the one-day furlough.

**30. Will employees receiving severance pay on May 28<sup>th</sup> lose a day of pay?**

- No. Severance is an employee benefit, and benefits are not impacted by the furlough.

**31. The furlough day occurs on Friday, May 28, 2010. Will employees still be paid for the Memorial Day Holiday?**

- Yes. DHRM has granted a statewide exception to policy to ensure that all eligible employees are paid for the Memorial Day Holiday.

**32. If an alternate furlough day also precedes or follows a holiday will the DHRM exemption to the holiday pay rule still apply?**

- Yes.

**33. Will leave accruals be prorated during the pay period in which the furlough day occurs?**

- No. DHRM has granted a statewide exception to policy to ensure that leave accruals are not impacted for employees whose salaries are reduced based solely as a result of being docked for the furlough day.
- Employees that are docked for other reasons such as suspensions or being absent without leave during that same pay period *will* have their leave treated in accordance with the standard provisions of policy.

**34. Will employees receiving VSDP or Workers' Compensation benefits on May 28, 2010 lose their disability benefits for that day?**

- No. The disability benefits will be paid in accordance with Policy 1.65, Temporary Workforce Reduction.

**35. Will an employee's creditable compensation be affected by the one-day furlough?**

- No. Assuming there are no other pay dockings in effect, retirement, retiree credit, group life insurance, and long-term disability fringe benefits will be calculated on the pre-furlough salary and reported to VRS and/or the Optional Retirement Plan (ORP) vendors.

**36. What happens if an employee is using leave for FMLA purposes on the day they are scheduled to be furloughed?**

- The leave charged for that day will be unpaid leave and the day will count toward the employee's FMLA entitlement.

**Human Resource representatives should contact their assigned DHRM/AHRS Consultant for additional assistance.**

**Employees should direct questions to their agency Human Resource Office.**