

DEPARTMENT OF DEFENSE



Defense Civilian Personnel Advisory Service

Administrative Furlough Questions and Answers

2013

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QUESTIONS AND ANSWERS ON ADMINISTRATIVE FURLOUGHS

REFERENCE

Office of Personnel Management (OPM) *Guidance and Information on Furloughs*

INTRODUCTION

These questions and answers augment those provided in the OPM's *Guidance and Information on Furloughs*, which can be found at: <http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>. The questions and answers are specific to the issues raised by this furlough and may not necessarily be the same for any future furloughs.

ADMINISTRATIVE FURLOUGH – GENERAL ADMINISTRATION

1. What is an administrative furlough?

An administrative furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any other budget situation other than a lapse in appropriations. This type of furlough is typically a non-emergency furlough in that the agency has sufficient time to reduce spending and give adequate notice to employees of its specific furlough plan and how many furlough days will be required.

2. Under what authority is a furlough taken?

There are three legal authorities under which a furlough can be taken. Furloughs of 30 calendar days or less are covered under adverse action procedures found in Subpart D of 5 Code of Federal Regulations (CFR) 752. Furloughs of more than 30 calendar days are covered under reduction in force (RIF) procedures found in Subpart B of 5 CFR 351. Furloughs for Senior Executive Service members are covered in Subpart H of 5 CFR Part 359.

3. How is an employee notified of a furlough?

Employees are notified of a furlough in writing by memorandum that is either personally hand-delivered to the employee or, if not available in person, is mailed by certified/return receipt to their home address of record. If required to mail a notice to an employee, the certified/return receipt mail option provides proof of mailing that is a legally acceptable means of delivery.

4. How is time on a furlough documented?

A Standard Form-50 (SF-50), "Notification of Personnel Action," must be prepared for each individual subject to furlough. A return-to-duty SF-50 will also be necessary.

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5. What effect will a furlough have on the calculation of an employee's creditable service?

Time spent in a non-pay status (including furlough) is credited as follows:

- **Career tenure:** The first 30 calendar days of each non-pay period is creditable service. (5 CFR 315.201(b)(4)(ii)(A))
- **Probationary period:** An aggregate of 22 workdays in a non-pay status is creditable service. (5 CFR 315.802(c))
- **Qualification standards:** There is no requirement to extend qualifying periods by the amount of non-pay status. However, agencies may require such extensions in order to meet training requirements or ability to perform. (5 CFR 335.103(b)(3), OPM Qualification Standards, General Policies and Instructions, part E.3.(f))
- **Time-in-Grade:** Non-pay status is creditable service. (5 CFR 300.605(a))
- **Service Computation Date-LEAVE:** Up to six months in non-pay status is creditable. (5 U.S.C. 6303(a))
- **Service creditable for within-grade-increases:** The time in a non-pay status that is creditable is determined by the employee's current step (See 5 CFR 531.406(b) for GS & 532.417(c)(2) for FWS)

6. What effect does a furlough have on time limited appointments or promotions?

Furloughs do not extend the not-to-exceed date of time limited appointments or promotions. Agencies have the option to separate temporary employees rather than include them in the furlough.

7. What happens to time limited appointments that expire during a furlough?

Furloughs do not extend the time limits for temporary (5 CFR 316.401(c)) and term (5 CFR 316.301(a)) appointments. An agency may extend the time limited appointment prior to the furlough, or the individual may be reappointed after the furlough in accordance with 5 CFR 316.401(c) or 5 CFR 316.302(b) (7).

8. May an employee volunteer to do his or her job on a non-pay basis during a furlough period?

No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an individual. (31 U.S.C. 1342)

LEAVE

9. If an employee who received a furlough notice had previously scheduled annual or sick leave on a furlough day, what happens to the scheduled leave?

Scheduled leave is canceled on furlough days only (annual leave, sick leave, or other). Absences during scheduled furlough days may not be charged to leave. Leave may be requested and approved on scheduled workdays.

10. May employees who were designated as exempt from an administrative furlough be granted paid leave?

Yes. Employees exempted from administrative furloughs would see no change from normal leave situations, subject to supervisory approval.

11. If an employee is on approved leave without pay (LWOP), but affected by the furlough, would the employee be furloughed and LWOP terminated?

No. The status of employees in LWOP is not disturbed unless there is indication that the employee may return from the LWOP during the furlough.

12. How will employees on home leave be affected?

Employees on home leave will be placed in a furlough status on scheduled furlough days. Home leave may be extended at the discretion of senior management officials.

13. If an employee is on leave under the Family and Medical Leave Act of 1993 (FMLA) during the furlough, do furlough days count towards the 12-week entitlement to FMLA leave?

No. Days associated with a furlough will not count against an employee's 12-week FMLA leave entitlement.

14. Will the furlough impact leave accrual?

A. Once an employee's balance of non-pay hours equals their scheduled hours in a pay period (e.g., 80 hours in a biweekly pay period, fewer hours for part-time employees), the employee will not accrue leave for that pay period. Leave accrual resumes the next pay period. This will occur twice if the furlough period is 22 days.

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PAY

15. If an employee performs National Guard or Reserve duty while furloughed is it a dual compensation situation?

It is not a dual compensation situation because furloughed employees are not in a pay status. They will be compensated by the military and continue to be carried in an Absent-US status.

16. Will employees in Temporary Duty (TDY) status during the furlough period be paid their salary?

During an administrative furlough, salaries continue except scheduled furlough days are non-pay days.

17. What happens to overseas allowances during an administrative furlough period?

Living Quarters Allowance continues (if an employee continues to make housing payments) for periods of non-pay status that do not exceed 30 days at one time. Other allowances continue for periods of non-pay status that do not exceed 14 days at one time.

BENEFITS

Federal Employees Health Benefits (FEHB)

18. To what extent does a non-pay status affect Federal Employee Health Benefits (FEHB) coverage?

Coverage continues; however, if the furlough results in salary less than the health insurance premium amount, the employee's share will be withheld on return to full pay status.

19. Will an employee continue to be covered under the FEHB program if the agency is unable to make its premium payments on time?

Yes, the employee's FEHB coverage will continue even if an agency does not make the premium payments on time.

Federal Employees Group Life Insurance (FEGLI)

20. To what extent does a non-pay status affect FEGLI coverage?

Coverage continues; however, if furlough results in a salary less than the FEGLI premium amount, employee's share will be withheld on return to full salary.

Thrift Savings Plan (TSP)

21. What happens to an employee's TSP contributions?

There will be a reduction in employee and employer contributions, unless the employee chose a set dollar amount vice percentage of pay.

22. Will the government matching contribution to TSP be reduced during the furlough period?

Government matching contributions determined by a percentage of an employee's basic pay may be stopped or reduced if the employee has no earnings, or if basic pay is reduced.

23. Can an employee take a TSP loan while furloughed?

Yes. By law, a TSP participant may take a TSP loan at any time when they are in a pay status.

24. What impact does the furlough have on an employee's loan payments?

Payments continue. If the employee's salary is insufficient, the loan may be extended or have a balloon payment at the end.

25. Can the Government take money from the TSP to resolve the financial situation?

No, the money in the TSP is held in trust for its participants. Neither Congress nor the Administration can take money from an employee's TSP account.

Flexible Spending Account (FSA)

26. To what extent does non-pay status affect Flexible Spending Account (FSA) coverage?

Coverage continues; if salary is insufficient to cover required deductions, expenses are not reimbursed until allotments are successfully restarted.

Long Term Care (LTC)

27. To what extent does non-pay status affect LTC coverage?

Coverage continues; employee may be billed directly if payroll deductions cannot be taken.

Federal Employees Dental and Vision Insurance Plan (FEDVIP)

28. To what extent does non-pay status affect FEDVIP coverage?

Coverage continues; employee may be billed directly if payroll deductions cannot be taken. Full employee contributions must be received to avoid dental and vision cancellation.

Retirement

29. To what extent does non-pay status affect retirement coverage?

Federal Employees Retirement System (FERS) and Civil Service Retirement System (CSRS) coverage continue during an Administrative Furlough of 30 days or less.

Social Security

30. Will social security contributions be affected?

Social security contributions are determined by a percentage of an employee's basic pay and may be stopped or reduced if the employee has no earnings or if basic pay is reduced.

Unemployment Compensation

31. Are Human Resources Offices required to provide furloughed Federal employees with an SF-8, Notice to Federal Employee about Unemployment Insurance?

Federal agencies are required to provide employees with an SF-8 if they will be in a non-duty status for seven or more consecutive days.

32. What address should the HR Office provide on the SF-8, Notice to Federal Employee about Unemployment Insurance? What is the Federal Identification Code (FIC)?

The address on the SF-8 should be the address for the Civilian Personnel Office (CPO) or Human Resource Office. The FIC is 421 for DOD Agencies, 422 for the Department of

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the Army, 423 for the Department of the Navy and 424 for the Department of the Air Force.

33. Are furloughed employees stationed overseas eligible to file for Unemployment Compensation (UC) benefits?

Overseas employees are not eligible to file for UC benefits unless they return to the United States (U.S.). Their UC claim would then be based on their state of residence.

34. Could an overseas employee file a retroactive claim when they return to the U.S. at the end of their tour of duty in two years?

No. None of the State Employment Security Agencies (SESA) would backdate a claim two years. If an UC claim was filed at that time, the claim would be effective when it was filed and not retroactive to the time of the furlough.

35. Is the UC claim based on the state where the employee lives, or where they work?

UC claims are based on the state in which the work was performed (this does not include overseas employees).

36. Are employees who are lower than a Grade 9, Step 5, exempt from paying back UC benefits if they are later paid for the furlough period?

The decision on whether or not employees would have to pay back UC benefits would be decided by each State Employment Security Agencies based on their UC law. Overpayment requirements apply to all employees for a particular state, regardless of their grade or salary.

37. Is information available as to what the states require before processing a claim for unemployment because of a furlough?

Yes. The list below gives Web sites or instructions for each state when filing an initial claim for unemployment; different procedures often apply when filing claims for additional benefits. You should also note that Kentucky has a Web site – at <http://www.oet.ky.gov/des/ui/staterefguide.asp> - that lists state Web sites, plus telephone numbers, for about 40 states.

Alabama – <http://dir.alabama.gov/uc>

Alaska – http://www.labor.state.ak.us/esd_unemployment_insurance/biff-splash.htm

Arizona – <https://www.azdes.gov/landing.aspx?id=4211>

Arkansas - <http://www.arkansas.gov/esd/UI/index.htm>

California – <https://eapply4ui.edd.ca.gov/>

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Colorado –

<https://wws.coworkforce.com/ucontinuedclaims/default.asp?ci=0&ps=0&er=0&li=e>

Connecticut – <http://www.ctdol.state.ct.us/progsupt/unemplt/M1A/LogInIntro.htm>

Delaware – <http://www.delawareworks.com/Unemployment/welcome.shtml>

District of Columbia – <https://does.dcnetworks.org/InitialClaims/>

Florida –

<http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/file-a-claim>

Georgia - <http://www.dol.state.ga.us/>

Hawaii – <http://hawaii.gov/labor/ui>

Idaho – <http://labor.idaho.gov/dnn/Default.aspx?alias=labor.idaho.gov/dnn/idl>

Illinois – <http://www.ides.state.il.us/individual/certify/default.asp>

Indiana – <http://www.in.gov/dwd/>

Iowa – <http://www.iowaworkforce.org/ui/file1.htm#1>.

Kansas – www.getkansasbenefits.gov

Kentucky – <http://www.kewes.ky.gov/>

Louisiana – https://laors.laworks.net/laclaims/Web_site/

Maine – <https://gateway.maine.gov/DOL/mics/BasePage.aspx>

Maryland – electronic filing not permitted if employee worked for the Federal Government in the past 18 months. File by phone at 410-949-0022 in the Baltimore area, or 1-800-827-4839 outside the Baltimore area. Information is at

<http://www.dllr.state.md.us/employment/unemployment.shtml>

Massachusetts – initial claim by phone or in person only. File by phone at 1-877-626-6800 from Massachusetts, 617-626-6800 outside Massachusetts. Information is at <http://www.mass.gov/?pageID=dlwdconstituent&L=2&L0=Home&L1=Claimants&sid=Edwd>

Michigan – <http://www.michigan.gov/uia/0,1607,7-118--77962--,00.html>

Minnesota – <http://www.uimn.org/>

Mississippi <http://mdes.ms.gov/unemployment-claims/>

form must then be brought in person to a Mississippi Job Center

Missouri – <http://www.labor.mo.gov/DES/Claims/>

Montana – <https://app.mt.gov/ui4u/index>

Nebraska – <https://uibenefits.nwd.ne.gov/BPSWeb/jsp/BPSClaimantWelcome.jsp>

Nevada – http://www.ui.nvdetr.org/UI_Agreement.html

New Hampshire – <http://www.nh.gov/nhes/>

New Jersey – http://lwd.dol.state.nj.us/labor/ui/ui_index.html

New Mexico – <http://www.dws.state.nm.us/>

New York – https://ui.labor.state.ny.us/UBC/home.do?FF_LOCALE=1

North Carolina – <https://www.ncesc.com/individual/webInitialClaims/applyBegin.asp>

North Dakota – <https://secure.apps.state.nd.us/jsnd/uiiaclaims/login.htm>

Ohio – <http://unemployment.ohio.gov/>

Oklahoma – <https://unemployment.state.ok.us/instructions.asp?x=n>

Oregon – <http://findit.emp.state.or.us/ocs>

Pennsylvania – <https://www.paclaims.state.pa.us/UCEN/>

Puerto Rico - <http://www.trabajo.pr.gov/>

Rhode Island – <https://uiclaims.state.ri.us/RI-ICS/Intro/index.aspx?AC=yes>

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South Carolina – <http://dew.sc.gov/>

South Dakota – <http://dlr.sd.gov/ui/default.aspx>

Tennessee – <http://www.state.tn.us/labor-wfd/esdiv.html>

Texas – <http://www.twc.state.tx.us/ui/uiclaim.html>

Utah – <http://jobs.utah.gov/ui/WebInitialCubs/Welcome.aspx>

Vermont – file by phone only, by calling 1-877-214-3330. Information is at

<http://www.labor.vermont.gov/Unemployed/tabid/109/Default.aspx>

Virginia – <http://www.vec.virginia.gov/vecportal/seeker/jslogin.cfm>

Virgin Islands – file in person only; contact information is listed at

<http://www.vidol.gov/OP/Contact.htm>

Washington – <http://www.esd.wa.gov/uibenefits/index.php>

West Virginia – <http://www.wvuc.org/>

Wisconsin – <https://ucclaim-wi.org/InternetInitialClaims/InfoBasicRequirements.asp>

Wyoming - <https://doe.state.wy.us/InetClaims/>

Injury Compensation

38. If an employee was in receipt of Federal Employees' Compensation Act (FECA) wage-loss compensation and was then furloughed, what effect would the furlough have on his/her compensation?

None. FECA wage-loss compensation is not considered wages and, therefore, is not affected by a lack of funding at the employing agency.

Priority Placement Program (PPP)

39. Are employees registered in PPP still considered for positions during the furlough period?

Yes; the PPP remains in effect for positions being recruited during the furlough period.

Employee Relations

40. What information should my Agency provide in a furlough notice?

For an administrative furlough, which is typically a non-emergency furlough, the agency provides at least 30 calendar days' advance written notice stating the specific reason for the proposed furlough and the following rights:

- To review the material relied upon to support the proposed action;
- At least seven calendar days to reply orally and in writing to the proposal notice and to furnish documentary evidence in support of his or her answer; and
- To be represented by an attorney or other representative.

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41. What procedural rights would apply for a planned administrative furlough of 30 calendar days or less for employees covered by competitive service rules?

In addition to the notice procedures outlined above in question #40, the law (5 U.S.C. 7513) gives a covered employee the following rights:

- A written decision by the agency with the specific reasons for its action at the earliest time practicable;
- The right to appeal the agency's action to the Merit Systems Protection Board (MSPB);
- The right to file a complaint with the Office of Special Counsel (OSC) if the employee believes the furlough action is taken as reprisal for whistleblowing;
- The right to file a complaint with the Equal Employment Opportunity Office and the Equal Employment Opportunity Commission (EEOC) if the employee believes furlough was effected in a discriminatory manner; and
- Where applicable, an affected bargaining unit employee may elect to grieve under a negotiated grievance procedure (NGP) or appeal to the Merit Systems Protection Board, but not both.

Labor Relations

42. Are employees who serve as union representatives on 100% official time subject to the furlough?

Yes. Unless employees who have been granted 100% official time to represent the union are otherwise exempted from the furlough, they must be furloughed and will have no entitlement to official time during the furlough period.

Training and Development

43. May an employee attend scheduled training on a furlough day?

No. An employee cannot attend any training that falls on a furlough day. Also, an employee cannot work on any training assignments on a furlough day. Employees should consult with the training provider to make other arrangements (e.g., make-up sessions or rescheduling the course).

44. What are employees who are in a long-term developmental assignment or activity allowed to do on furlough day(s)?

Employees cannot attend any developmental activities on a furlough day, nor work on any developmental assignments on the furlough day. In general, developmental program managers are aware of the furlough and will, to the extent possible, synchronize furlough days with affected Components so as to mitigate the furlough's impact on participants. Employees should consult with their developmental program manager for more information.

Personnel Security

45. If the furlough impacts my ability to meet my financial obligations (e.g., mortgage or rent payments), will it impact my eligibility for continued Suitability for Federal employment, access to classified information, or to hold a sensitive position?

A furlough is a circumstance beyond your control. The Federal Adjudicative Guidelines specify that the adjudicative process is the careful weighing of a number of variables known as the 'whole person concept.' Mitigating factors include whether the conditions that resulted in the concern were largely beyond the person's control and whether or not the individual acted responsibly under the circumstances. As a proactive measure, you may wish to contact your local Employee Assistance Program (EAP) to see if financial planning is available.