

**DEPARTMENT OF ADMINISTRATIVE SERVICES
HUMAN RESOURCE SERVICES DIVISION**

COST REDUCTION DIRECTIVE

Effective September 1, 2009 (Revised November 10, 2009)

POLICY STATEMENT:

Due to extraordinary budgetary shortfalls, Oregon state government through the Department of Administrative Services (DAS) is continuing cost reduction measures for the 2009-2011 biennium. Based on budgetary needs, DAS may extend or reissue this directive with revisions.

AUTHORITY:

ORS 240.240, 240.250, 240.551 and State Human Resource Policy 10.000.01 Definitions.

APPLICABILITY:

This directive applies to all Executive Branch agencies excluding the Secretary of State, State Treasurer, Lottery, the Oregon University System and Semi-Independent Agencies.

This directive applies to the following categories of service:

- Management Service (ORS 240.212)
- Executive Service [ORS 240.205 (1-5)]
- Unclassified Service [ORS 240.205 (6-16)]
- Classified Unrepresented (240.210)
- Unrepresented Temporary Employees (ORS 240.309)

This directive temporarily supersedes any conflicting state human resource policy and applies statewide to all fund types.

DEFINITIONS:

Furlough or Mandatory Unpaid Time Off: a temporary excused unpaid absence from work equivalent to an 8-hour workday for full time employees or for part time employees, prorated based on the employee's regularly scheduled hours.

Fixed Office Closure Date: a scheduled closure day affecting a program, section, unit, or worksite.

Floating-Day Furlough: a furlough day off that can be taken on a scheduled workday subject to supervisory approval and operating needs of the agency.

POLICY:

(1) Salary Freeze

- (a) All merit increases will continue to be frozen.
- (b) Agencies are prohibited from awarding “special merit” or “special salary increases.”
- (c) The salary freeze does not affect an increase upon promotion, or setting a new salary eligibility date in accordance with State Human Resource Policy 20.000.10, Pay Practices.
- (d) The salary freeze does not affect an increase upon reclassification upwards according to State Human Resource Policy 30.005.01, Effect of Position Classification Change on Incumbents.

(2) Top Step Suspension Continued

- (a) On July 1, 2008, Oregon state government added a top-step to all management, executive and unclassified excluded service classifications. Effective March 1, 2009, DAS suspended access to these steps on the compensation plan. All management, executive and unclassified excluded service employees at the new top step returned to the next lower step on the compensation plan. Access to these steps remains suspended.
- (b) On June 30, 2009, Oregon state government added a top-step to all classified unrepresented classifications but suspended access to that step on the compensation plan. Access to these steps remains suspended.

(3) Performance Recognition Leave

Agencies shall not award exceptional performance recognition leave (“discretionary leave”) with pay during cost reductions.

(4) Vacation Leave Administration

- (a) Notwithstanding State Human Resources Policy 60.000.05, Vacation Leave, the vacation accrual limit for management and executive service employees is 425 hours through December 31, 2009 and:
 - (i) On January 1, 2010, the vacation accrual limit returns to 350 hours.
 - (ii) On January 1, 2010, employees with more than 350 hours of accrued vacation leave will have the excess leave moved to a separate account,

which will be available for use until June 30, 2013, but will not continue to accrue.

- (iii) On June 30, 2013, all leave in the separate account will be lost and is non-compensable.
- (iv) Employees will continue to accrue vacation leave in their regular account. Hours earned over 350 hours shall be immediately lost to the employee if the equivalent of those hours are not used prior to the month of maximum accrual.
- (v) The provisions in State Human Resources Policy 60.000.05 (1) (i) and (j), Vacation Leave pertaining to retention of vacation leave hours and vacation leave payout upon separation from state service remain in effect.

(b) Vacation payout to avoid loss is prohibited.

(5) Furloughs

- (a) Classified unrepresented employees will take the number of furlough days listed in the table below.
- (b) Management and unclassified employees (including executive service) will take the number of furlough days listed in the table below at a minimum.
- (c) Unrepresented temporary employees will be unscheduled an equivalent number of days depending on the duration of employment, hours scheduled, and the salary tier in the table below. Temporary employees do not record leave time such as “LA” in the payroll system. Agencies are required to track the unscheduled hours assigned to temporary employees and report the unscheduled hours to DAS HRSD on a quarterly basis.
- (d) Part-time and job share employees take furlough leave on a pro-rated share based on the employee’s regularly scheduled hours.
- (e) Seasonal employees take furlough leave based on the employee’s regularly scheduled hours during the months employed.

For purposes of a guideline, the tiered obligation for floating furloughs is equally split between fiscal years in the biennium:

<u>Tiers by base salary</u>	<u>Number of Days Sept. 2009-June 2010</u>	<u>Number of Days July 2010-June 2011</u>	<u>Total Days</u>
1 -- \$2450 and below	5	5	10
2 -- \$2451 to \$3100	6	6	12
3 -- \$3101 and above	7	7	14

(f) Except for agencies or programs covered by Section 6, schedule furloughs based on fixed office closure dates. Agencies will close offices on the following dates:

- Friday, October 16, 2009
- Friday, November 27, 2009
- Friday, March 19, 2010
- Friday, April 16, 2010
- Friday, June 18, 2010
- Friday, August 20, 2010
- Friday, September 17, 2010
- Friday, November 26, 2010
- Friday, March 18, 2011
- Friday, May 20, 2011

(g) In addition to the above listed closure dates, employees in Tiers 2 and 3 take their two or four additional furlough days as float days.

(6) Agencies and Programs Exempt from Fixed Office Closure Dates

(a) Agencies who need unrepresented employees to observe alternate closure dates or schedule floating furloughs in lieu of fixed office closures must obtain approval from the Human Resource Services Division (HRSD) as soon as possible but no later than September 30, 2009.

(b) If there is an agreement with a labor organization for a program or agency to observe floating-day furloughs rather than fixed office closures and unrepresented employees working in the program or agency are similarly situated, an agency does not need to obtain approval from HRSD to schedule the unrepresented employees for floating furlough days in lieu of fixed office closures. However, agencies must inform HRSD, as soon as possible and no later than September 30, 2009, of their decision and the number of affected unrepresented employees.

(c) Agencies with represented employees must reach agreement with the labor organization to observe only floating furlough days or alternate closure dates by working through the Labor Relations Unit of HRSD.

(d) Agencies and programs required to continue operations in spite of established fixed office closure dates do not observe the fixed office closure dates listed in Section 5.

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(7) Furlough Scheduling

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- (a) All non-temporary employees must submit a furlough election form to their supervisor (Attachment 1). Employees in tier 1 who are subject to fixed office closures need to submit the furlough election form once.
 - (b) Employees working in programs and agencies exempt from fixed office closure dates will have their choice of floating furlough days, subject to agency operating needs and supervisory approval.
 - (c) In an effort to ensure that the scheduling of time off is distributed throughout the biennium, furlough time off is scheduled on a quarterly basis. An employee may request and management may approve more days in some quarters and fewer in others, but no more than two days in any calendar month, which includes fixed office closures.
 - (d) Employees required to take floating furlough days shall submit a furlough election form to their supervisor at least 30 days prior to the start of each quarter. Supervisors respond no later than 15 days prior to the start of each quarter. Employees shall submit requests for floating furlough day(s) for the September-December 2009 period to supervisors no later than October 15, 2009.
 - (e) If furlough time is not scheduled within the current quarter, management may schedule the required furlough day(s) within the quarter or next quarter. Rescheduling to a following quarter does not apply to the last quarter of the biennium (April – June, 2011).
 - (f) Employees may schedule a floating furlough day as a part of their vacation or compensatory time off request. However, no more than two furlough days can be taken in one calendar month.
 - (g) Employees who have pre-scheduled paid sick leave may schedule a floating furlough day as a part of their pre-approved paid sick leave request. However, no more than two furlough days can be taken in one calendar month.
 - (h) Employees may, but are not required to, schedule floating furlough days on an official state holiday.
 - (i) Unless required by law, employees may not substitute other types of unpaid absences or paid leave to replace furlough leave.

(8) Rescheduling Furloughs for Operational Needs

- (a) Managers and supervisors should refrain from calling employees in for partial day work during a furlough day. In the event of unforeseen circumstances with impact

to agency operations that require an employee to perform work, management may unschedule part or all of the furlough day and direct the employee to perform work.

- (i) The employee and the supervisor shall arrange to take the remainder of the furlough at a mutually agreeable time, which could result in a partial day furlough.
- (ii) If the remaining portion of the furlough is not mutually scheduled or taken within the applicable quarter, then management shall reschedule it no later than the following quarter.

(9) Effect of Unpaid Furloughs on FLSA Overtime Exempt Status

- (a) When employees in positions designated as exempt from the overtime requirements of state wage and hour and federal fair labor standards are placed on a mandatory furlough, they become non-exempt, overtime eligible employees and are paid on an hourly basis for the entire workweek. This means that during a furlough week (12:01 a.m. Monday to 12:00 midnight Sunday or an alternate workweek established by agency policy), employees are scheduled to work 32 hours.
- (b) Hours worked between 32 and 40 hours in a furlough workweek by an employee described in this section is compensable at straight time. Hours worked over 40 is compensable at the overtime rate of pay in accordance with State Human Resource Policy 20.005.20 Fair Labor Standards Act.

(10) Effect on New Hires, Changes in Tiers and Employee Separations

- ~~(a)~~ Employees hired after September 1, 2009, shall have their required furlough days adjusted, as illustrated in the example in Attachment 2.
- (a)
- (b) At the time of an employment offer letter, newly hired, reemployed, recalled and laterally transferred employees shall be notified of their furlough obligation.
- (c) The furlough obligation for employees whose salary tier changes is the effective date of the personnel action. However, if the effective date is after the 15th of the last month in a quarter, the change in furlough obligation will be effective the following quarter.
- (d) Taking furlough leave does not increase the duration of the trial service period.
- (e) Employees who anticipate separating from employment must satisfy their fixed and float furlough dates that are scheduled and occur prior to their separation date.

(11) Effect of Furloughs on Leave Accruals, Benefits, Holidays, and Retirement

- (a) Record furlough days off with the payroll code “LA.” Using this code will not affect:
 - (i) vacation or sick leave accrual; or
 - (ii) the employer’s contribution to health insurance.
- (b) Employee out-of-pocket benefit costs do not increase because of furloughs.
- (c) A furlough day taken the workday before or after a compensable holiday does not affect an employee’s eligibility to receive compensation for the holiday.
- (d) Furlough days reduce the contribution to an employee’s Public Employee Retirement System account.

(12) Furlough Leave during Leaves of Absence

- (a) Family and Medical Leave Oregon Family Leave (FMLA/OFLA): While on an absence designated as FMLA or OFLA or both, employees may not use paid sick leave or other forms of paid leave on a fixed office closure date or a scheduled floating furlough. Fixed office closure dates and floating furlough days taken and recorded as furlough leave (“LA”) do not count against an employee’s protected leave entitlement.
- (b) Workers’ Compensation Leave: Employees on workers’ compensation time loss may not use accrued leave to make up the difference between the workers’ compensation payment and the regular salary rate on a furlough day (either fixed office closure date or a scheduled float day).
- (c) Military Leave with pay: An employee is not paid military leave if a fixed office closure date occurs during an employee’s annual military leave with pay for training. Agencies may reschedule floating furlough dates, if possible, so they do not conflict with an employee’s annual military leave for training.
- (d) Employees on leave without pay record furlough leave on fixed office closure dates and scheduled float days.
- (e) Employees who began or completed any leave of absence, including FMLA/OFLA, leave without pay, workers’ compensation, and military leave, may not designate any of the period of leave as floating furlough days. Floating furlough days must be scheduled in advance of any type of absence.

| (13) **Failure to Comply**

- (a) Managers or supervisors who allow employees to work on a scheduled furlough day, allow employees to work without recording time worked, or allow employees to make up work during a workweek in which a furlough day was taken may be subject to disciplinary action up to and including dismissal.
- (b) Managers or supervisors who fail to make a good faith effort to follow any portion of this directive may be ineligible for the State's liability coverage in the event of wage and hour or other litigation. In such instances, an individual manager or supervisor may be personally liable for their acts or omissions.
- (c) Employees may not, under any circumstance, perform job duties related to their position without being directed out of furlough status by their supervisor, manager or agency head. Employees who perform work on a furlough day without specific management authorization may be subject to disciplinary action up to and including dismissal.

Attachments: (1) Employee Furlough Election Form
(2) Furlough/MUTO Remaining Obligation Chart