

CONSIDERATIONS FOR USING UNPAID TIME OFF, OR A FURLOUGH

To assist you with understanding furloughs, this guideline will provide you with information on what they are, how they work and how they can be used while abiding by Wage and Hour regulations and any applicable bargaining agreements. At the end of this paper, you will find frequently asked questions that may assist in applying furloughs within certain situations. Please know that any questions regarding furloughs can be directed to Human Resources.

What is a furlough? A furlough is unpaid day(s) off of work, which can be either voluntary or mandatory. Furloughs are used as reductions in scheduled hours to help minimize costs and thus save money. According to a consulting firm, Hewitt Associates, a weeklong furlough can save companies about 2% of annual payroll. Furloughs can be taken in short periods of time such as an unpaid day(s), or in longer increments such as a week or multiple weeks.

Certain criteria must be reviewed prior to taking or offering a furlough so that there are no violations of applicable collective bargaining agreements or compliance issues with the Fair Labor Standards Act.

Who is eligible for a furlough?

Anyone can be considered for a furlough. However, there are limits to unpaid days off per the respective collective bargaining agreements:

U.A.W. Local 1950 (TOP):

- Article 7.5 Temporary layoffs – Not to exceed a total of seven (7) days per contract year or 2 days per pay period. The Union will be notified before such layoffs are implemented.
- Article 9.2.2 addresses **Personal Leave**. “Leaves of absence up to three (3) months without pay may...be granted...leaves of absence for like causes may be extended for additional three (3) month periods, but the total leave time shall not exceed one (1) year.”
- Article 9.2.4 addresses **Seasonal Leave**. “Leaves of absence up to four (4) months without pay may be granted to employees who have acquired seniority...”
- Article 9.3 contains General Conditions regarding leaves of absences.

U.A.W. Local 2178 (AP):

- Article 7.10: Temporary layoffs – Will not exceed a total of seven (7) days per contract year or 2 days per pay period. The Union will be notified before such layoffs are implemented. This provision will affect salary, retirement and Social Security contributions only.
- Article 16.2.1 addresses general conditions of unpaid leaves of absences.
- Article 16.2.3 addresses **Personal Leaves** up to three (3) months without pay may be granted after an employee has exhausted all accumulated annual leave.

- Article 16.2.5 addresses **Seasonal Leaves** where “Leaves of absence up to four (4) months without pay may be granted to employees who have acquired seniority...”

AFSCME Local 1094: Not specifically addressed. Please follow the non-exempt examples in this document for general guidance.

- Article 16 Section D addresses **Temporary Adjustment of the Work Force** “When there is a temporary decrease in the work force of four (4) months or less, probationary employees and seniority employees will be laid off by classification within their districts or their recognized work area...”
- Article 25 Section B addresses voluntary **Personal Leaves** of absences in which “Leaves of absence up to three (3) months without pay may be granted ..for those employees who have acquired seniority...”.

Exempt and Non-exempt Staff:

There are other considerations that need to be taken into account as it relates to exempt and non-exempt personnel. (Note: Non-exempt personnel are eligible for overtime payments for any hours worked in excess of 40 hours in a week; exempt personnel are exempt from the overtime payments and are paid a set salary basis.)

Non-exempt personnel are eligible to take a furlough in daily increments or weekly. Again, this would be for unpaid time for hours not worked.

Exempt personnel, including faculty, are eligible to take weekly furloughs PROVIDED they do not perform any work in that week. Federal law generally holds that exempt employees who do any work in a given week must be paid their full salary for that week. This would include checking work emails or answering or making work phone calls.

Restrictions for exempt personnel:

If the exempt personnel want to take multiple weeks for a furlough, he/she must take it one week in a pay period. Otherwise, we will have a payroll situation in which there will be no pay from which to take necessary deductions. Therefore, it is the recommendation of Northern Michigan University to break up weekly furloughs with paid time – either with time worked, or vacation time.

If exempt personnel want to take a furlough in daily increments, the following conditions must be met:

- They are truly volunteering to take a furlough day; this must be completely voluntary
- If there is a holiday during the week in which they wish to take furlough, they are able to collect holiday pay and still have the designated furlough days as unpaid
- The decrease in salary should not go below \$455/week

There will be no effect on benefits during a furlough. Salary, retirement and Social Security contributions only will be affected.

You may not be eligible for unemployment for your voluntary furlough.

Requesting a Voluntary Furlough

In order to be considered for a voluntary furlough, an employee must complete the Furlough Authorization Form located on the Human Resources website. Once the form has been completed and signed by the employee, it is submitted to the supervisor for approval. When the form is returned to Human Resources, it will be reviewed for compliance with federal regulations and NMU practice and the employee will be notified in writing once approval is granted. A copy of the Furlough Authorization will be placed in the employee's personnel record reflecting the unpaid time off. Should it be necessary to modify the proposed schedule, the employee must discuss the change with their supervisor and the Human Resources Department to ensure that personnel records are corrected and sufficient money remains for payroll deductions. (On a personal note, employees should also confirm that their unpaid time off will still allow for sufficient funding to cover personal bank account deductions).

Mandatory furloughs

If there are mandatory furloughs, timing of notice needs to be taken into account. Union notification, employee notification and possible Worker Adjustment Retraining Notification, or WARN Act, provisions need to be reviewed. (The WARN Act requires employers with 100 or more employees to provide 60 days notice of a plant closing or a mass layoff of 33% or more of the workforce at a single worksite. Please note that new regulations are being pursued to increase the notice period to 90 days. Typically an employer will not need to issue a WARN notice when implementing a temporary furlough unless the furlough exceed six months or become permanent.) Otherwise, typically a thirty days written notice is recommended.

In some departments, required furloughs may be offset by using accrued vacation and/or personal leave days, but this is dependent on the purpose and reason for the required furlough.

Furloughs are to be coded as LWO (Leave without pay) in the timekeeping system.

FREQUENTLY ASKED QUESTIONS

Exempt Personnel (Union and Non-union) FAQ:

1. Holidays. You have an exempt employee who is on a reduced schedule of 4 days per week. It is a holiday week in which two of his scheduled work days are holidays. He requests to take the remaining two days off without pay. Is he able to do this? Can he still collect his holiday pay?
 - a. Yes – if he completely volunteers and performs no work during that week, he can take the two days as furlough days and collect holiday pay on his other days, even though he is exempt.

2. You have an exempt employee who wants to take a month off in the summer. Is this person eligible for a furlough?
 - a. If the employee belongs to the AP Union, UAW Local 2178 – the employee can request a Seasonal Leave per Article 18.2.5.
 - b. If the employee is not in a union and can use vacation time or personal time sometime during the month – the answer is yes. Exempt, non-union employees can take a one week furlough per pay period. Due to having to take out proper deductions, there must be a week of pay in between weeks. For example, an employee can take a week off without pay, take a week of vacation, and then take another furlough week.
3. You have an exempt employee who wants to take Friday off as furlough days. Can the employee do this?
 - a. Yes. This would be considered a reduction in the workweek with associated pay.
4. You have an exempt employee who wants to take a Friday off here and there and count them as furlough days. Can the employee do that?
 - a. As long as he truly is volunteering, the answer is yes. The day would be recorded as LWO – or leave without pay.

Non-exempt FAQ:

1. You have a secretary who approaches you and asks for a day off without pay. The employee has ample vacation and personal time. Can you allow this person a furlough day?
 - a. Yes. As long as the employee has not exceeded 7 day per contract year or 2 days in a pay period.
2. You have a non-exempt union person call in unexpectedly and say they are using a furlough day. Is this allowed?
 - a. No. Furlough days have to be planned in advance between the employee and the supervisor. If the employee is actually calling in sick, it should be accounted for under sick leave. If the employee has used all their sick leave balance, the time will be counted as “Leave without Pay” and appropriate disciplinary action should be taken.

All employee types FAQ:

1. What if a supervisor receives multiple requests for the same furlough day(s)?
 - a. A supervisor should make every effort to accommodate an employee(s) request for an unpaid furlough. If multiple employees request the same time off and it isn't feasible to have more than one employee off during that time, the supervisor should establish a method for equitable approval of the requests. One option may be to approve the furlough request that was received first.

