

FAQs



COLORADO
Department of Personnel
& Administration

Mandatory Furloughs September 2020

The following are frequently asked questions regarding mandatory furloughs. This document will be updated as warranted.

September 18, 2020

General

1. **Q: What is a mandatory furlough?**

A: An unpaid day(s) off of work without pay as ordered by the Governor.

2. **Q: What is the purpose of mandatory furlough?**

A: The nation is in the midst of the worst economic downturn since 2008. Although Colorado is better off economically than most states, it is not immune from budgetary shortfalls. The slowing economy and pandemic has resulted in increased unemployment and declining consumer spending, which, in turn, have adversely impacted State revenues. While the September revenue forecast was better than expected, this only means that the state will not have to make additional cuts. In light of falling revenues and in order to keep the State's budget in balance, the administration is undertaking aggressive budget cutting measures in the current fiscal year, and those budget cutting measures include reducing the State's personal services expenditures. One of the tools available to manage a portion of the revenue shortfall is to order mandatory furloughs of most state employees.

3. **Q: Who makes the decision to order mandatory furloughs?**

A: The Governor makes the decision to order mandatory furloughs. Under the Colorado Constitution, the Governor is vested with the executive power of the state, and this includes close supervision of the funds appropriated by the General Assembly. In the exercise of that responsibility, he has the authority to order mandatory furloughs in the event of a revenue shortfall like the one the State is currently experiencing. This authority was confirmed by the Attorney General in a formal opinion issued on July 16, 2009. See [Attorney General Opinion 09-05](#). In addition, under C.R.S. § 24-2-102(4), the Governor may

exercise his discretion by executive order to suspend or discontinue functions or services of state government in the event of insufficient revenues. The Governor may take actions necessary to reduce expenditures through mandatory furloughs.

4. Q: When are the furlough days scheduled?

A: We know that we cannot continue to ask employees to do more with less. As a result, most State offices will be closed on Friday, November 27, 2020 and Tuesday, February 16, 2021 (the day after Thanksgiving and Presidents' Day, respectively). There may be a business need that requires employees to work on one or both of the first two furlough days. In that event, employees are required to take an alternative furlough day on another day as approved by the department.

The remaining furlough days will be distributed throughout the rest of the fiscal year as directed by each agency. Generally, agencies will be flexible when the additional furlough days will be taken but this may be restricted based on business needs.

5. Q: How were the furlough days selected?

A: The days after Thanksgiving and President's Day were selected with the goal of minimizing the impact to employees. Specifically, this included spreading the furlough days throughout the fiscal year, providing employees with enough notice before the first furlough days, and adjoining the days to existing state holidays.

Employee Coverage

6. Q: Who is covered by a mandatory furlough?

A: All employees in the Executive branch (except the departments of Education, Law, State and Treasury) are covered under the mandatory furlough requirement. The Executive Order also identifies specific furlough exemptions.

7. Q: Who will be exempt from mandatory furloughs?

A: There are state employees in departments that are subject to the Executive Order who will be exempt from the mandatory furlough requirement. In crafting the exemptions, the Governor's Office endeavored to balance fairness and equity with the need to ensure that essential round-the clock services, public safety, and services in high-demand because of the economic downturn are not disrupted. A description of the positions that are exempt from

mandatory furloughs is set forth in the Directives section of the Executive Order.

8. Q: Are employees in the departments of Law, State, and Treasury included in the mandatory furloughs ordered by the Governor?

A: The departments of Education, Law, State, and Treasury are exempted from the furloughs required by the Executive Order. Any decisions regarding the need for mandatory furloughs of both classified and non-classified employees based on budget needs will be communicated by those departments directly.

9. Q: Are employees in institutions of higher education included in the mandatory furloughs ordered by the Governor?

The State's institutions of higher education with their governing boards and Presidents may furlough non-classified employees without permission of the Governor. With respect to classified employees, the Executive Order provides institutions of higher education the discretion to order mandatory furloughs if needed to manage their budgets accordingly.

10. Q: Are employees in the Judicial Branch or Legislative Branch included in the mandatory furloughs ordered by the Governor?

A: The furloughs ordered by the Governor do not apply to employees of the Judicial or Legislative Branches because the State constitution vests the authority to manage these budgets with the legislature and the Supreme Court respectively.

11. Q: The State Personnel System created by law is supposed to ensure that all classified employees are treated the same. So, why are some classified employees in certain departments exempt from the mandatory furloughs?

A: The Colorado Constitution requires that classified employees "hold their respective positions during efficient service or until reaching retirement age, as provided by law. They shall be graded and compensated according to standards of efficient service which shall be the same for all persons having like duties." Colo. Const. art. XII, § 13(8). This provision requires equal pay for equal work, but does not restrict the Governor's authority or ability to exempt departments or positions from a mandatory furlough.

While the Colorado Constitution requires equal pay for equal work; it does not require that every position within a classification or an executive department be treated identically. Employees who are furloughed receive less pay, but they also work fewer hours, keeping with the equal pay for equal work requirement.

This issue is more thoroughly addressed on pages 5 and 6 of [Attorney General Opinion 05-09](#) issued on July 16, 2009.

12. Q: Which employees are impacted by the furlough?

A: In arriving at the number of furlough days, the impact on employees was considered, particularly lower wage earners, as well as the goal of 10% of Fiscal Year 2020-21 cuts from furloughs. The chart below shows the progressive furlough days based on base salary. An employee's base salary (annual equivalent for part-time) as of July 1, 2020 is used to determine the number of furlough days required by the end of the fiscal year.

Full - Time Employee Annual Base Salary (or Annual Salary Equivalent) on July 1, 2020	Number of Furlough Days
\$0 - \$50,000	0 days
\$50,000.01-\$70,000	2 day
\$70,000.01-\$90,000	3 days
\$90,000.01-\$140,000	4 days
\$140,000.01-\$150,000	5 day

As approximately 75% of the state's workforce will take at least two furlough days, most state offices should be closed on the day after Thanksgiving and the day after President's Day. Agencies will have the discretion to have employees work those days based on business need, but the employee will need to take an alternative furlough day in the quarter that holiday occurs. The remaining furlough days can be taken at the direction of the employee with department approval but must be taken before the end of the fiscal year.

13. Q: Why are employees required to take some designated furlough days and allowed to choose the remaining furlough days?

A: There are a variety of reasons that the State opted to designate two mandatory furlough days and permit employees to select the remaining days accordingly. One, state services will be impacted because over 75% of employees are required to take at least two furlough days. Two, by designating days on a statewide basis, citizens will know and can predict what days State services will or will not be available. Three, employees with salaries below \$50,000.01 must report to work on the scheduled furlough days which will

require a manager or supervisor to report as well if their salary is above the furlough threshold.

14. Q: Why are some employees in the same classification required to take a different number of furlough days?

A: The furlough plan is a tiered approach based on an employee's salary as established within the pay range for their job classification. Employees in the same classification and corresponding pay range may have different salaries based on a number of factors, including years of service, experience, and merit increases.

15. Q: Will some employees be required to take their mandatory furlough days on days other than the designated furlough days?

A: Some offices cannot be entirely shut down on a designated mandatory furlough day without imposing a substantial hardship on or adversely impacting the health or safety of the citizens of the State, or because doing so would substantially impair the ability of the office to meet its legal obligations. Because of these limitations, the Governor granted each Executive Director the flexibility to determine whether it is necessary and in the best interest of the State to permit certain employees subject to mandatory furlough to take their furlough days on days other than those designated above. Although this exemption will be sparingly invoked, such flexibility is necessary to ensure that the State continues to meet its obligations during the furloughs. Those employees occupying positions that cannot be furloughed on the designated furlough days will take their furlough days on alternative dates determined by their Executive Director.

16. Q: How is one day of furlough pay calculated?

A: The furlough days will be treated as a deduction from employees' pay based on a percentage of the annualized hourly rate. For example, if a full-time employee's salary is \$6,000 per month, one furlough day will deduct approximately \$276.96 from that month's salary ($6,000 * 12 = 72,000 / 2080 = 34.62 * 8 = \276.96). The annualized hourly rate includes any temporary pay differentials, but does not include shift differentials or hazard pay.

17. Q: My position is paid with federal funds or cash funds, so why am I required to furlough?

A: Furloughing state employees is far from an ideal situation. In formulating the furlough plan, position funding was among the competing factors considered. As noted above, however, a great deal of weight was given to fairness and the need to treat similarly situated employees, regardless of

funding source, the same. Taking all concerns into consideration led to the decision to standardize furloughs to the greatest extent possible, which led to the inclusion of federally-funded and cash-funded employees in the State's furlough plan.

18. Q: Does the furlough apply to non-classified employees?

A: The furlough applies to both classified and non-classified employees in those departments subject to the furloughs as listed in question 11.

19. Q: How will the furlough days apply to part-time employees?

A: The furlough day will be prorated based on the percentage of time the part-time employee is scheduled to work, just like other types of leave. For example, if an employee typically works 50% time in a week then the employee's furlough would be based upon the 20 hours worked of their normal schedule. If the employee has one furlough day per month, they would take four hours.

20. Q: What if an employee is on a flexible schedule and works four 10-hour days? How will a furlough day be applied?

A: Flexible schedules can still apply. All employees, including those on flexible schedules, should have no more than 8 hours deducted for a single furlough day. For example, an employee can work three 10-hour days as normal and request annual leave for the remaining two hours for that furlough workweek. Another common schedule is the "5x4" where employees work four days every other week. If the furlough day is scheduled to occur the day the employee would be off, the employee needs to work with their appointing authority and department HR office to make alternate arrangements.

Although FLSA exempt employees are not bound by 40 hour workweeks during non-furloughed weeks, they should not be expected to work additional hours to make up for furlough time or more hours than they would normally work if it were not for the mandatory furloughs.

21. Q: Will the furloughs extend an employee's probationary or trial service period?

A: An employee's probationary period or trial service period is not extended due to the furlough because there is no opportunity to work during a furlough day or alternate furlough day.

22. Q: Are new hires subject to the furlough?

A: It depends on when the employee begins to work for the State. If the employee is employed prior to or on the day of the two scheduled furlough days they are required to take the furlough day. If the employee begins working for the state after the two furlough days, the employee is required to take floating furlough days as outlined in the chart below.

Annual Pay Rate	Employed on November 27, 2020 (Day After Thanksgiving)	Employed on February 15, 2021 (Day After Presidents' Day)	Employed on or After February 16, 2021 (Floating Days)	Employed on or After April 1, 2021 (Floating Days)	Employed on or After June 1, 2021 (Floating Days)
\$0 - \$50,000	0	0	0	0	0
\$50,000.01- \$70,000	2	1	0	0	0
\$70,000.01- \$90,000	3	2	1	0	0
\$90,000.01- \$140,000	4	3	2	1	0
\$140,000.01 - \$150,000	5	4	3	2	1

Working During Furlough

23. Q: Is it okay for employees to work on a furlough day and simply forgo pay?

A: Employees are not permitted to work on a furlough day. If an employee works on a furlough day, they will be required to take the time worked as a furlough on an alternative day.

24. Can an appointing authority require employees to work on other days to make up the missed hours attributed to a furlough?

A: Furloughed employees, including those that are FLSA-exempt (also known as salaried employees), are not expected to work extra hours in non-furlough weeks to make up for the work time lost due to a furlough. However, if an employee is required to work due to business needs (e.g., scheduled conference or training or is called in by the appointing authority for an emergency situation), an alternate furlough day must be designated by the employee's Executive Director, preferably within the same pay period or same work week. Although FLSA exempt employees are not bound by 40 hour

workweeks during non-furloughed weeks, they should not be expected to work additional hours to make up for furlough time or more hours than they would normally work if it were not for the mandatory furloughs.

25. Q: Can my supervisor require me to make up the work time lost by a furlough day?

A: No. It is anticipated that services may diminish during the week of the furlough. However, furloughed employees, including those that are FLSA-exempt (also known as salaried employees), are not expected to work extra hours in non-furlough weeks to make up for the work time lost due to a furlough. Supervisors are expected to use sound business judgment and respect and promote employee work-life effectiveness. In addition, non-exempt employees who are required to work additional hours during non-furlough weeks would likely increase overtime costs and negate any cost savings to the State realized from the furlough. Although FLSA exempt employees are not bound by 40 hour workweeks during non-furloughed weeks, they should not be expected to work additional hours to make up for furlough time or more hours than they would normally work if it were not for the mandatory furloughs.

Impact on Benefits (Health, Life, Dental, Leave, Retirement)

26. Q: Will my service date, used for continuous state service and to calculate leave, be affected?

A: No, there is no impact - service dates are not adjusted during furloughs.

27. Q: Will my health, life, dental insurance be affected?

A: No, there is no impact to insurance benefits from a furlough. The State continues to pay the employer's share of insurance premiums during a furlough, just as the employee's share will continue to be deducted as normal.

28. Q: Will my Short-term Disability (STD benefits) or Workers Compensation Benefits be impacted by the furlough days?

A: These benefits are based on salary. Because a mandatory furlough is not a permanent reduction in salary, there is no change in these benefits. However, accrued paid leave to supplement and/or to make whole may not be applied on mandatory furlough days.

29. Q: What happens to my annual and sick leave accrual during furloughs? Is it prorated for the day of unpaid leave?

A: As furloughs are mandated and there is no opportunity to work, employees continue to earn sick leave, annual leave and holidays while on mandatory furlough as though the furlough had not occurred.

30. Q: Will a furlough decrease my leave payout if I leave employment with the State?

A: Leave payouts are not decreased because of a furlough day.

31. Q: How do furloughs affect my retirement benefits?

A: In the month of a furlough day, the State and employee total dollar contribution towards retirement benefits will decrease commensurate with the temporary reduction in pay due to the furlough. Currently, state law does not allow for make-up contributions (outside of furlough days from July 1, 2002 to June 30, 2004).

For questions about Highest Average Salary (HAS) calculations, purchase of service credit, and other retirement issues, contact PERA customer service at 303-832-9550 (1-800-759-7372 toll free) or visit the PERA website at: www.copera.org/ or email Customer Service for general questions.

32. Q: Since the two scheduled mandatory furlough days are after a holiday, will employees still receive holiday pay?

A: Yes. Permanent employees only need to be employed by the state when the holiday is observed to receive holiday pay.

33. Q: Can employees take an unscheduled furlough days prior to the scheduled furlough days?

A: As permitted by their agency, employees may begin taking the unscheduled furlough days starting on October 1, 2020.

34. Q: Can employees take the three unscheduled furlough days in a block of time?

A: Agencies have the discretion to determine the timing of furlough days outside of the two scheduled furlough days as long as they occur by June 30, 2021. Please reach out to your supervisor and/or HR representative for more information.

35. Q: What happens if I experience a qualifying event under the Family and Medical Leave Act (FMLA) or Families First Coronavirus Response Act (FFCRA) during a furlough or I am on FMLA or FFCRA-related leave, when the furlough occurs?

A: For employees who are currently designated and using FMLA, the designation is not impacted. The only change is that if an employee is using annual or sick leave for FMLA, the day of furlough will be unpaid. If the employee was on unpaid FMLA there is no change. The furlough day runs concurrent with FMLA.

For employees who are using FFCRA-related leave (emergency paid sick leave or emergency public health leave), the paid leave cannot be used on the furlough day.

36. Q: What happens if I am summoned to appear for jury duty on a scheduled furlough day?

A: Employees summoned to appear for jury duty must appear for jury service as required and would record their time as jury duty per statute. They would then need to work with their supervisors to take an alternate furlough day.

37. Q: If I have been exempted from the mandatory furlough, may I take paid leave on a furlough day?

A: Managers of furlough-exempt employees will be permitted to grant annual leave and sick leave to furlough exempt employees on designated furlough days; this leave, however, must be managed to support the business needs of the agency. In addition, before deciding to grant the leave, departments should consider the impact on employee morale and the effects on the workplace, especially for those employees who are subject to the furloughs as well as those required to work.

Annual Leave: Many of the furlough-exempt employees are in positions where annual leave must be planned long in advance in order to effectively manage the overall workforce and staffing levels throughout the fiscal year. Although departments will be permitted to manage and authorize annual leave for furlough-exempt employees without regard to the furlough, departments may choose to limit, prohibit, or refuse to authorize paid annual leave for furlough exempt employees on designated furlough days.

Sick Leave: It is critical that employees who are sick, particularly those employees with contagious illnesses, not come to work and expose their fellow employees. In order to avoid creating an incentive for furlough-exempt employees to come to work while sick or contagious on furlough days, furlough-exempt employees will be permitted to take paid sick leave on designated furlough days. In order to guard against potential abuse, however, departments may impose additional requirements for approving paid sick leave on designated furlough days, including but not limited to requiring verification

of illness from an employee's physician as permitted under State Personnel Director's rule. Departments may adopt policies that include sanctions for furlough-exempt employees who abuse sick leave on designated furlough days.

Other paid leave: Departments may not grant administrative leave to any furlough-exempt employees on designated furlough days, nor may a furlough-exempt employee use donated leave under a department's leave sharing program on a designated furlough day. Other forms of paid leave, including but not limited to bereavement leave, jury duty leave, and military leave, should be provided for furlough-exempt employees without regard to the designated furlough days.

38. Q: I have been exempted from the furlough; can I choose to take leave without pay on a furlough day?

A: Executive directors will have the discretion to grant leave without pay to furlough-exempt employees who would normally be scheduled to work on a designated furlough day or who have requested paid leave on a furlough day. If you are a state personnel system employee and exempt from the furlough, you must either be approved for unpaid leave or be at work the day of the furlough. If your office is partially or completely closed and there are not enough tasks to occupy the furlough day, unpaid leave may be granted by the Executive Director for the time you are not working.

39. Q: I am a FLSA-exempt employee (not eligible for overtime), is my pay subject to reduction?

A: Under a mandatory furlough, pay is subject to reduction, because the intent is to save personal services dollars.

40. Q: I am designated as an essential employee; will the furlough day be counted in my total hours for overtime purposes?

A: By statute (C.R.S. § 24-50-104.5), employees who are designated as essential employees must have paid leave included in all hours worked for overtime purposes. Because a furlough day is unpaid, that time is not counted.

Other

41. Q: Can I take an extra furlough day to help a fellow employee?

A: Unfortunately, this is not an option. However, if you are in a position to help other employees that are struggling financially there are options. You can take the equivalent amount of money that you were willing to furlough for another

employee and donate it to the [Credit Union of Colorado Foundation](#). Through generous funding by the Foundation, the Colorado State Employee Assistance Program (CSEAP) provides emergency financial assistance grants to state employees in need.

42. Q: My spouse and I are both State employees - it feels unfair because it seems like a “double hit”. Why do we both have to take furlough days?

A: Although everyone has individual concerns, the furloughs are based on business decisions related to the budget. For employees where this creates a financial emergency you may be eligible for assistance through CSEAP. State employees may [apply](#) for small grants below \$500 to address critical documented expenses (e.g. housing, utilities - power, natural gas, etc.). CSEAP also provides a [list](#) of additional organizations available to assist with basic needs, resources and services.

43. Q: Can employees who are furloughed file for unemployment?

A: Certain criteria must be met in order to be eligible for unemployment benefits. Generally, this includes working fewer than 32 hours, earning less than the weekly amount unemployment may pay you to receive unemployment insurance benefits, and separation from employment at no fault of your own. For the most complete and updated unemployment benefit information, please visit cdle.colorado.gov/unemployment.

44. Q: Do I have the right to grieve or appeal the fact that I am being furloughed? What about any other decision made in connection with the Executive Order?

A: The Colorado Constitution and Colorado statutes provide the grounds for a grievance or appeal of an adverse employment decision. The Executive Order neither expands nor diminishes those grounds for a grievance or appeal. Should you believe you have an appealable or grievable claim in connection with the Executive Order and should you wish to pursue it, you must follow the procedures set forth in the State Personnel Board Rules. As provided in Personnel Board Rule 8-8, “an employee must initiate the grievance process within 10 days of the action or occurrence being grieved.”