NEVADA DEPARTMENT OF AGRICULTURE
FURLOUGH LEAVE
POLICY #AG-1-HR-4

PURPOSE:

This policy establishes procedures for employees and supervisors, in regard to the use of furlough leave, to include guidelines and explanation of the requirements and conditions in an effort to ensure understanding and statutory compliance.

POLICY:

It is the policy of the Department of Agriculture to ensure all employees of the Department use and report the required hours of furlough leave in a responsible and informed manner. All employees and supervisors will receive a copy of this policy and are expected to follow the procedures and requirements set forth within.

SCOPE:

This policy applies to all departmental employees, unless specifically exempted by the Board of Examiners.

REFERENCES:

Nevada Revised Statutes (NRS) 284.065 and 284.345; Nevada Administrative Code (NAC) 284.531 and Nevada Employee Action and Timekeeping System (NEATS).

FORM:

As currently provided by the Division of Human Resource Management, NEATS and the Department of Agriculture.

RESPONSIBILITY:

1. Agency Human Resource Services (AHRS) shall be responsible for:
    a. Providing assistance to supervisors and employees in the interpretation and explanation of this policy and NAC 584.531.

2. Each Division Administrator is responsible for:
    a. Ensuring that their division employees and supervisors comply with this policy and that no exceptions are granted to this policy unless written approval is granted by the Director and/or the Board of Examiners.
    b. Providing a quarterly report to the Director that reflects Division compliance with this policy.

3. Supervisors are responsible for:
    a. Working with each employee to jointly determine, in advance, a schedule for taking furlough leave during the fiscal year.
    b. Ensuring all employees are taking unpaid furlough leave in compliance with state regulations and Department policy.

4. Employees are responsible for:
    a. Working with the supervisor to jointly determine, in advance, a schedule for taking the required furlough leave during the fiscal year.
    b. Monitoring their time to ensure they have taken the required hours of furlough leave in compliance with state regulations and department policy.

PROCEDURES:

Use of Leave:

1. A furlough is the placement of an employee on leave without pay. While in furlough status, employees will not receive any type of pay, such as base, added regular time pay, overtime, compensatory time, salary adjustment (5%), shift differential, catastrophic leave, or any other type of compensation.

2. Overtime pay, compensatory time earned, or added regular time (for part-time employees) shall not be allowed in the same workweek as unpaid furlough leave unless approved in advance by the Administrator of the Division of Human Resource Management and the Director of the Department of Administration or their designated representatives.

3. A full-time employee, unless exempted by the Board of Examiners, is required to take the equivalent of 4 hours of furlough leave for each full month in the fiscal year.

4. Part-time and intermittent employees, unless exempted by the Board of Examiners, must take the equivalent of the portion of 4 hours of furlough leave for each full month in the fiscal year that is proportional to the average number of hours worked.

5. No employee may take more than 12 hours of furlough in a workweek.

6. Furlough time should be taken in no less than 1 hour increments, except as is necessary to reduce furlough in a week where other pay status requires an adjustment, i.e. overtime worked, or as otherwise directed by the appointing authority. Example: An employee takes 1 hour of furlough on a Monday and works 30 minutes over their scheduled shift on Friday of the same pay week; the furlough time needs to be reduced to 30 minutes that week, and the employee now needs to record the other 30 minutes of furlough in another workweek.

7. Employees that are exempt from receiving overtime must take unpaid furlough leave in increments of not less than 8 hours.

8. Overtime exempt employees must be mindful of the fact that during the week in which furlough leave is taken, the employee is paid on an hourly basis. A full-time employee must not work more than 32 hours in the week in which they take an 8 hour furlough leave.

    a. If a situation arises in the week in which a furlough day is taken and the exempt employee must work more than the 32 hours, the furlough time must be reduced.

    b. Additionally, if leave is taken in the same week as furlough that is less than a full work day, it must also be reported. Example: The exempt employee has a furlough on Monday and on Wednesday he has a dental appointment that takes 2 hours; he must report the two hours of sick leave.

    c. If an exempt employee takes furlough in a holiday week and then needs to work on a holiday, then the furlough leave must be changed to annual leave to prevent holiday premium pay liability.

9. No work of any kind may be performed during the time to be considered in unpaid furlough status. This includes work at home, monitoring e-mails, telephone messages, and responding to inquiries from work.

    a. Any requirement for the employee to work on a furlough day will result in the employee's time being adjusted.

    b. If an employee takes furlough leave and subsequently needs to work additional hours, the employee will adjust days or hours worked. Example: 8 hours of furlough is taken on Monday and 6 hours are worked the following Saturday; the employee will reduce the furlough leave to 2 hours on Monday and record 6 straight time hours on Saturday. In this situation, an employee, including exempt employees, will need to have a signed variable workweek agreement on file.

10. Paid leave time may not be substituted for a furlough leave day (e.g., an employee is scheduled for a furlough day and becomes ill, the furlough cannot be changed to reflect sick leave). Furlough leave may not be substituted when an employee does not have sufficient accrued sick leave or annual leave to cover an absence unless pre-approved by the employee's supervisor. Furlough leave may not be substituted for AWOL hours.

11. Employees who are on extended leave are not exempt from the requirement to take furlough leave. Therefore, an employee on catastrophic leave, FMLA leave, administrative leave, or workers' compensation leave is also required to record the appropriate amount of furlough leave.

12. Using furlough leave to "fill in" periods of tardiness will not be permitted under any circumstances. A last-minute request to use furlough in order to leave early for the day will be at the discretion of the employee's supervisor, and approval will depend upon workload and staffing.

13. To ensure appropriate staffing levels are maintained while also ensuring furloughs are taken, the supervisor may require an employee to take furlough leave at a specific day or at a specific time, or both.

14. Supervisors and Division Administrators should ensure an employee makes every effort to reduce their excess annual leave to prevent forfeiture or payment of excess annual leave and also use the appropriate amount of unpaid furlough leave.

Beginning/Ending Dates of Furlough Requirement:

1. Transfers In and New Hires:
    a. The requirement to take furlough leave begins the first full month of employment (e.g., an employee beginning employment on July 1st will be required to take furlough in July; if employment begins on July 2nd, the employee's first furlough begins in August).

    b. The amount of furlough time an employee has to take upon hire or transfer is determined as follows: the requirement for a full-time employee will be equivalent to 4 hours per month (48 hours in a fiscal year). An employee beginning work on August 15th, would start a furlough requirement in September (removing July & August) and be required to take 40 hours for the remaining fiscal year (part-time employees would take a proportionate amount of time).

    c. If an employee transfers from another state agency, he or she would only be responsible for taking the remaining amount of furlough leave not taken at the previous agency.

2. Transfers Out or Terminated Employees:
    a. An employee who is transferring out or terminating may have taken a furlough day prior to his or her last day of employment. The employee will not be reimbursed for the amount represented by the furlough leave, even if the employee only worked for a partial month as no work was performed during furlough leave.

b. If an employee leaves a position prior to taking furlough leave for the period, the position must remain vacant a sufficient period of time to achieve the corresponding amount in salary savings.

c. If an employee transfers to a different agency and has already taken the appropriate amount of furlough leave for the period, the employee will not be required by the receiving agency to take additional furlough leave in the same period.

Approval/Documentation:

1. Furlough leave must be requested and approved prior to being taken. The employee will submit the furlough requests through NEATS by using the Leave Request link.

2. The supervisor approves the request in NEATS, after ensuring the request will not create: a) conflict with the employee's reporting hours (not to exceed 40 hours in week furlough is taken); or b) problems with workload or staffing.

3. To ensure staffing levels and ensure that furloughs are taken, the appointing authority may require adjustments to the employee's request.

4. Any adjustments to the employee's request or changes in the furlough scheduled should be documented in NEATS.

5. All supervisors should track and document furlough time scheduled for all employees under their supervision.

Reporting:

1. Furlough leave will be reported by the employee in NEATS. The employee must report the furlough hours taken as outlined in this policy, coded as (UFRLO).

2. The Division Administrator will provide a quarterly report to the Director that reflects Division compliance with this policy. This report will show documentation that adequate amounts of furlough are being taken quarterly by each employee and that a plan to take furlough leave is in place to ensure that employees are systematically reducing their furlough leave requirement.

Furlough Leave Considered Time Worked on All Other Employee Accounts:

Except for payment of salary and determination of overtime, or if otherwise provided by any regulations that may be adopted by the Personnel Commission, an employee who is on furlough leave is considered to have worked that day or portion of a day, as applicable, for all other purposes and programs dealing with the employee, including but not limited to those listed in a through h below:

a. Accrual of sick and annual leave;

b. Determining an employee's pay progression date;

c. Continuity of service and years of service relative to the longevity pay program;

d. Duration of a probationary period;

e. Determining eligibility for holiday pay;

f. Seniority for all purposes, including layoffs;

g. The Public Employees' Benefits Program; and

h. The Public Employees' Retirement System

Since there is no reduction in retirement benefits due to furloughs, employees on the employee/employer compensation schedule shall be required to pay their portion of retirement for the unpaid furlough leave taken in a pay period. This amount will be deducted along with the regular retirement contribution on the employee's paycheck.

Unpaid furlough leave will be counted as time worked for the purpose of determining eligibility under the Family and Medical Leave Act (FMLA). Unpaid furlough leave taken during the time an employee is on FMLA leave will not be counted against the employee's 12-week FMLA entitlement.

Consequences of Non-Compliance:

Every classified and unclassified employee is subject to unpaid furlough leave regardless of type of appointment or funding source of position.

Any employee refusing to take the unpaid furlough leave, will be required to take specific time off as designated by the appointing authority, and will be subject to disciplinary action. Additionally, failure to comply with or disregarding the provisions of this policy may result in disciplinary action.

Any exception request which deviates from this policy must be submitted to the Director 30 days in advance, as far as practicable.

POLICY COMMUNICATION:

All employees within the Department of Agriculture will receive a copy of this policy and will sign an acknowledgement that they have read and understand the conditions within. Employees needing clarification should contact an AHRS or the Division of Human Resource Management representative for more information. Any employee that refuses to sign the acknowledgement may be subject to disciplinary action.

DIRECTOR'S POLICY AUTHORIZATION:

Jim R. Barbee, Director

12/11/13
Date

APPROVED BY THE BOARD OF AGRICULTURE ON 12/05/13.
Effective Date

This policy is not a substitute for relevant law or regulation nor does it establish additional rights beyond those provided in law and regulation. This policy is intended to be used in conjunction with the state law and the Rules for State Personnel Administration (NRS & NAC 284).