



USM Furlough/Salary Reduction Guidelines Fiscal Year 2011

The FY2011 Budget Bill (SB 140) requires that USM “funding for regular and contractual salaries shall be reduced . . . to reflect furlough savings in fiscal 2011.”

Thus, the USM is required, for a third year, to reduce its salary costs by implementing unpaid leave plans for employees. Like last year, the amount of savings that must be achieved through such plans is \$26,088,466, to be distributed across institutions in amounts specified by the Department of Budget and Management (DBM).

At its April 16, 2010 Meeting, the USM Board of Regents adopted a Resolution Authorizing Furloughs and Temporary Salary Reductions of Employees for FY 2011. Like the resolutions of previous years, the FY 2011 furlough resolution establishes a set of principles to guide furlough planning at the USM and its institutions, as follows:

- The institution’s plan shall be implemented in a manner that ensures the continuation of essential services with minimum disruption to the institutions, particularly with respect to the maintenance of class schedules, essential student services and institution patient care activities.
- No overtime or compensatory time may be granted to compensate for the loss of services of furloughed employees;
- Employees may not be required to work in their areas or perform official duties during a period of furlough;
- No reduction of employment benefits, including retirement, health or leave benefits, will occur as a result of implementation of the furlough plan;
- Furlough plans must address the financial impact of furloughs and temporary salary reductions on USM employees by taking compensation levels into account in establishing the number of furlough days or temporary salary reduction amounts.

Types of Plans

Once again, institutions may achieve furlough savings by adopting a traditional furlough plan, a temporary savings plan,¹ or combination of both:

¹ In these guidelines, references to “furlough savings,” “furlough plans,” etc., encompass both traditional furloughs and temporary salary reductions.

Furlough: In a traditional furlough plan, employees are assigned a number of furlough days that must be taken before June 30, 2011, according to a progressive scale depending upon income level. Under state and federal employment laws, employees generally can only take a limited number of furlough days per week, depending up their salary levels. Also, the reduction for furlough day(s) must be taken out of the employee's pay check for the pay period when the day was taken. Under federal law employees cannot report to work on furlough days.

Temporary Salary Reduction: In a temporary salary reduction plan, institutions meet their budget reduction targets by reducing employees' pay for the rest of the fiscal year (until June 30, 2011) according to a progressive scale based on the employee's income. Employees are given a proportionate number of paid administrative leave days. A temporary salary reduction is a technique to smooth out the dollar effect of salary loss over the fiscal year by applying a small amount to each pay period. It does not implicate the federal and state employment law limitations that apply to traditional furloughs.

An institution also may use a combination of furloughs and temporary salary reduction. For example, the institution may reduce employees' pay in an amount commensurate with the number of days that it plans to shut down the campus, and require employees to take furlough days for any additional days that they are assigned under the institution's plan.

Protection of Retirement Benefits

Regardless of the type of plan adopted, the institution must have a payroll calculation process established that reduces the bi-weekly pay, but does not reduce the gross pay for the purposes of calculating retirement.

Employee Relations

The institutions must negotiate any furlough or temporary salary reduction plan with the appropriate labor union if its employees are represented. It is important that a signed agreement be in place.

Furthermore, the institutions must seek input from the appropriate Shared Governance Councils when developing any plan.

Institution Plans

Each institution faces different challenges in meeting its furlough savings requirements and implementing furlough plans. Thus, each campus will have discretion to determine the number of days, and income levels at which those days are assigned, subject to the following:

Required Exemptions: Institutions should not include the following categories of employees and students in their furlough plans:

- Graduate assistants
- Student employees
- Adjunct faculty who are paid by the course
- H-IB Visa Workers²

Institution Closures: Institutions may close for one or more days with unpaid leave for their employees as part of their furlough plans. If an institution closes for more days than the minimum furlough days established for certain employees, such employees must take annual leave or personal days in order to be paid on the closure days.

Minimum/Maximum Furlough Days: Every employee must be assigned at least one furlough day, and some number of highly compensated employees must be assigned at least ten days.

Exceptions: Institutions may make narrow exceptions to these requirements, or otherwise tailor their furlough plans, for the following reasons:

- To ensure the continuation of activities that are totally or partially funded by the federal government or other external sources; or
- To protect the health and safety of campus community or the public.

In addition, an institution may seek an exception to the above requirements based on a showing that their strict application would disrupt essential services or revenue-producing operations, create severe inequities on a campus, or otherwise produce serious adverse consequences. Such requests must be submitted in writing to the Chancellor and provide a detailed explanation of the reasons for the request, and an estimate of the number of employees affected, the amount of savings implicated by the exception, and the alternative source of those savings in the institution's furlough plan. Exception requests should be made and approved by the Chancellor before they are included in either campus scenarios prepared for discussions with employee organizations or the campus furlough plan.

Plans should not include deferred costs in future fiscal years or changes in employee benefits.

Special Requirements for Federally-Funded Positions

² Under current U.S. Department of Labor regulations, the employer of an H-IB visa holder is required to pay the employee either a "prevailing wage" established by the Department or an "actual wage" commensurate to that paid by the employer to other similarly situated workers. The regulations do not permit payment of less than that salary during weeks when the employee does not work a full work week due to a decision of the employer.

Under the requirements for federal contract and grant-funded positions set out in the A-21 Circular, institutions have considerable discretions as to the furlough of federally-funded employees, subject to certain constraints:

- When closing an institution for a furlough day, these employees should be furloughed and not paid.
- When furloughing an employee who is partially federally funded, the institution cannot merely reduce the state portion of the employee's compensation, while paying for the federal portion. Any savings from the salary deduction from the federal portion should be used for other grant purposes.
- Institutions may prorate the number of days the employee is assigned based on State funding. For example, if 50% of an employee's salary is state funded and 50% is federally funded, and the employee's salary level would require six furlough days, the institution may assign three furlough days.