

Furlough Questions 2008-2009

5/7/09

Revision 1 5/21/2009

This Q&A provides guidance in response to questions received from personnel in the LEAs. This Q&A supplements the answers provided by the NC Office of State Personnel. See their document at

<http://www.osp.state.nc.us/Flexible%20Furlough%20Program%20FAQs.pdf>

NCDPI staff has been in communication with the Community College leadership to ensure that we have a consistent application of the Executive Order.

NCDPI staff has been working with ISIS and SARTOX to ensure that where possible, the systems can help you implement this Executive Order.

The questions are categorized in three main areas:

- General
- Furlough
- Calculations

General

1. Is this legal?

Yes, the Governor's Executive Order #11 (EO#11) authorizes this action.

2. Is the 0.5% a deduction or a reduction?

The 0.5% is a reduction in the teacher, instructional support, SBA and other employee's salary schedules for 2008-09.

3. Who is affected?

ALL state employees who are funded from funds that are allotted through DPI. (See Question #4 for locally funded)

EO #11 states "All full-time, part-time, temporary and contractual employees funded from the general fund, highway fund, federal funds, special funds, trust funds or other receipts that flow through the state." (See questions below for details)

4. Are personnel who are funded through local funds affected?

~~Local funds are under the control of the local boards of education. It is their decision as to how to treat locally funded personnel.~~

House Bill 917 requires all employees, even locally funded employees, to be included in the Executive Order #11

5. Does this apply to subs or other employees who might work on an as- needed basis?

No, per the Public School Personnel Benefits manual Section 1.1.8 subs are classified as substitute employees and are not included in the Executive Order. A permanent substitute would be subject to the pay reduction and furlough leave.

6. Are VIF included?

~~We are investigating the visa implications and requirements.~~ VIF are included

7. Are Charter school employees included?

Yes, charter school personnel who are funded from state or federal funds are included.

8. If an employee is going to be RIF'd, in May or June, how does this affect them?

All employees who receive a pay check in May and/or June are included in the pay reduction, regardless of their future employment.

9. If I'm a 10-month employee with one full paycheck left, then how will this cut be taken out of that check? Can a payment plan be arranged?

The entire 0.5% will be reduced from their May pay check. Payment plans are not an option.

10. 5/20/09 Driver Ed instructors included

Yes

11. 5/20/09 Are Principal Fellows included?

Yes

5/21/09 No, per OSP these employees are to be treated in a consistent manner as graduate assistants and interns, who are excluded from the reduction.

12. 5/20/09 Are ROTC instructors included?

JROTC instructors minimum salaries are cost shared between the school district and the federal government on a 50%/50% basis. The minimum salaries are governed by U.S. Title 10 and must maintain the minimum instructor salary. Therefore, ROTC instructors are included BUT they can not receive less than the contracted minimum amount determined by the Federal government. Per our cursory review of these employees, many are paid close to the minimum.

Furlough

13. As a school-based employee, how would the 10 hours of flex time be distributed for me? Would I leave school early?

Scheduling the 10 hours Furlough leave is between the employee and the supervisor.

14. Can I substitute unused annual leave time in place of the cut?

No

15. If I work an eight-hour day, how will this 10-hour furlough work with our leave request form?

The LEA will need to determine the tracking requirements for the furlough time.

16. Can I split up the 10 hours – is there a minimum that has to be taken at one time?

There is no minimum. However, the time must be approved by the supervisor.

17. Full time normally means 8 hours per day. We have full time personnel who are employed 6 hours or more. Does the unpaid flexible time (10 hours) for full time employees also apply for full time working less than 8 hours per day or will this be pro-rated like for part-time employees?

Full time is defined as 40 hours for all employees (exception see teacher assistants below)

If an employee works less than 40 hours, they will have the 10 hours pro rated. Therefore, an employee who works a 30 hour week will receive 7.5 hours.

Per State Board of Education policy, the work week of a teacher assistant is defined by the local board of education. Therefore, if the LEA has defined a teacher assistant full time work week as 35 hours, the teacher assistant is still eligible for the 10 hours.

Under no circumstance shall an employee receive more than 10 hours furlough time.

18. How will part-time employees' flexible time be calculated?

The part time employees will receive a pro rata share of the time. E.g. If they are 50% employed, they will receive 5 hours.

19. How are the hours of furlough leave calculated for the hourly employees who do not have a set work schedule?

In the case of employees who may not have a consistent weekly schedule, LEAs may calculate the pro-rated portion of flexible time off by multiplying the total number of hours paid in FY 2008-09 by 10/1733.

The 10/1733 fraction is derived by dividing the 10 hours of time off being provided to 10-month, full-time employees with an annual work schedule of 1560 hours. An employee may not be granted more than 10 hours of time off.

20. What does the Governor mean when she says this applies to "temporary and contractual employees"? How would we grant "flexible furlough leave" to a contracted employee?

We are waiting for further clarification on this. Note only contracted employees who receive a W-2 are impacted, not those that receive a 1099.

21. What if an employee is RIF'd at the end of the year, but then rehired – are their hours reinstated?

No the time is not reinstated. If employment is terminated, any unused furlough time is lost.

- 22. For those employees who are not eligible for benefits, and therefore do not accrue or use leave, are they entitled to the 10 hours as well? For example, tutors or lunch room assistants fall into that category.**

Yes, they are entitled to the furlough time. Benefit eligibility is not a criterion for the furlough time eligibility.

- 23. 5/21/09 How does the Flexible Furlough program work with regard to temporary and hourly employees?**

Annualized salary for temporary and hourly employees is defined as the total amount of base compensation paid during July 1, 2008-June 30, 2009. The .5% deduction in pay is based on the amount paid to the employee during FY 08-09. For the deduction in the May paycheck, .5% is deducted from the annualized salary (based on the payments from July 2008 to date). For June, the payment will be reduced by .5% of any pay not included in the May deduction calculation. For pay periods in which the deduction is taken, the temporary employee's hourly wage may not be reduced below the Federal minimum wage.

The Flexible Furlough time off does not apply to temporary employees. The program is not intended to provide a benefit to temporary employees who otherwise do not receive benefits.

- 24. How do we allow certain hourly employees who only work on school days (i.e. cafeteria workers or bus drivers) take the flexible furlough time off? We will have to secure a substitute which will not be a budgeted expense?**

5/21/09 If these employees are temporary see question #23. Furlough time for hourly personnel and employees that require a sub is still in discussion.

- 25. When the Furlough leave time is taken does it count as "worked" time for calculation of overtime in that week?**

No

- 26. If the employee leaves one LEA and moves to another LEA, does the furlough leave go with them?**

No.

- 27. 5/20/09 Can an LEA or school determine a time when all employees will use their furlough leave?**

Yes. The LEA may designate a day in the school calendar as a furlough day.

- 28. What about teachers who are non-renewed or who retire? What is their quid pro quo if their pay is cut and they are not able to use their flexible time off?**

If the furlough leave is not able to be taken prior to termination of employment, the employee will lose the time.

Calculation for the 0.5%

29. How is the 0.5% calculated?

The 0.5% is applied to the annual base salary. This is defined as the April gross salary multiplied by the normal contract months for the position.

A teacher who earns an annual salary of \$40,000 – ½% annualized would be \$200 – the teacher will only receive 1 more check in May – the \$200 will be reduced from the May gross salary.

Or a principal who earns \$60,000 – ½% annualized would be \$300 – this reduction would be spread over the May and June check.

Example:

Teacher is employed in January. The certified salary from April multiplied by 10 months.

A teacher receives their master's pay in January. The certified salary from April (at the Master's level) is multiplied by 10 months.

A central office staff earns an annual salary of \$40,000 in LEA X and then moves to LEA Y in March for an annual salary of \$48,000. The reduction is calculated on base salary of \$48,000 * 0.5%

30. What is included in the annual base salary?

Gross salary. For certified employees this would be their certified salary.

31. What is excluded?

Mentor pay, stipends, after school tutor pay, extra duty pay, local supplements (paid from any funding source)

32. **5/20/09** Is Overtime included?

No

33. How is annualized salary determined for hourly employees?

The annualized salary is the actual amount paid from July 1 through June 30th. We are providing a suggested method of implementation.

LEAs may calculate the actual amount paid from July 1 through April 30th and gross this up for estimated pay in May. The LEA may then true up the calculation in June.

Example:

Employee has been paid \$18,000 from July 1 through April 30th.

The 0.5% is calculated on $\$18,000 * 11/10 = \$19,800$

In May \$99 is reduced.

Any over or under payment is corrected in the June pay.

34. **05/20/09** If an employee is employed less than a full year eg. employed in January, do they still have the 0.5% taken from their annualized salary or is it only for the portion they worked.

The 0.5% is calculated on the annualized salary as if they were employed the whole year. They will receive the full 10 hours in return.

35. When are the reductions taken?

215 day salaried employees will have the 0.5% taken out of the May check.

Salaried employees paid on a variable calendar (11 and 12 month employees) will have the reduction split between the May and June checks. While the LEA is encouraged to spread the reduction equally among May and June payrolls, this may not be possible if the employee is paid significantly less in June and does not have sufficient pay to cover the second portion of reduction.

Hourly employees – See question 25 above.

36. If the reduction causes the employee to be paid less than the Federal minimum wage, do we still take the reduction?

No, you must not take the reduction. Note: you must take the reduction even if it causes the pay to be below the minimum amount for the employee's position or below the State minimum.

37. We have employees who have 2 months of dependent health deductions taken from their last paycheck. This often results in them not having much, if any, take home pay. If the reduction causes a negative pay, do we still take the reduction?

If the flexible furlough reduction **alone** is greater than the total compensation paid during the program period, the employee **will not** be responsible for paying the difference to the LEA.

If the sum of flexible furlough reduction **and** other deductions results in a negative amount, the employee **will be** responsible for providing payment **to the LEA or charter school** to cover any deductions for benefits in a group plan (i.e. insurance premiums, supplemental retirement plans, employee association dues, etc.).

38. Can 10 month employees who are paid over 12 months have the reduction taken from the installment payments? How about year round teachers?

215 day employees (including year round) will have the total reduction taken from the May check. June Installment checks may not be used for the reduction

39. What does "split funded employee salaries or contracts shall be reduced by the same proportion as the base salary" mean?

This means that if the employee is funded 50% from state funds and 50% from federal funds, then 0.5% must be reduced from the state portion and from the federal portion.

40. How will full time dual employees be handled? Example: A full time 6 hour employee works 4 hours in CN and drives a bus 2 hours per day. How will the .5% be deducted and how will the unpaid flexible time be handled between the two departments?

The .5% will be taken from both positions. The furlough leave should be handled by the management of the 2 departments.

41. When the file is submitted for retirement, does the calculation apply to the original gross salary or the new reduced salary – both on the employer and employee calculation?

Both the employer and the employee retirement contribution is calculated on the gross pay LESS the reduction.

5/20/09 HB917 requires the employer to pay both the employer and the employee retirement contribution to the Retirement System. Currently, DPI staff is discussing the mechanics of making this happen with the Retirement Office and the software vendors.

42. If retirement is held harmless, then does the employee have to pay 6% of their normal salary?

The employee will pay 6% on the reduced pay for the month(s) it is taken

5/20/09 Per HB917, the employer will pay the 6% on the furloughed salary amount.

43. The EO memo says that the employee's retirement will not be affected, what does that mean?

The Governor's EO stated that she is asking legislation to be passed to ensure that the benefit calculation when an employee retires is not lessened due to the 0.5% reduction in salary.

5/20/09 HB917 has been passed and it states that the retirement calculation shall not be harmed by the reduction.

44. Our May payment period is the last check for the 08- 09 fiscal year for our 10 month employees. Can 10 month employees who spread their pay out over 12 months use their June installment pay to spread the reduction?

No

45. Can we take the entire reduction out of the May check for our 12 month employees?

No, the EO #11 states that it must be spread over the remaining of the fiscal year. All 11 and 12 month employees (paid for working over 11 or 12 months on the variable calendar) must have the .5% reduction spread over two pay periods (May and June)

46. Can we decrease the salaries as a set deduction to be taken pretax (reducing salary) called furlough? This would help us to track the deduction for reporting to state and answer questions about the reduction.

No.

47. Will there be new teacher salary tables set up for this?

No.

48. If increases are given next year, are they on the normal or reduced salary?

This will be determined by legislation.

49. I have a teacher on paid leave for the month of May, do I take the reduction?

Yes.

50. Are employees who are on disability or workers compensation subject to the .5% annualized salary deduction?

No.

51. How are annual leave payouts made in June – are they paid on the reduced salary?

No, the annual leave pay out will not be affected by the reduction.

52. Do we make employee and employer longevity on the base salary or base salary less the .5% annualized salary deduction?

Longevity payments must be calculated based on the base salary. I.e. As if there was no reduction.

53. For child nutrition employees, will we send the money for the 1/2% reduction to the state or to the local district to cover the cafeteria employees who are paid only through local funds?

At this point, no funds will be sent to the State or the LEA.

54. How are cafeteria personnel supposed to be able to take 10 hours of time off when the CN program does not have the personnel to cover the time off, without hiring substitute workers? These employees already go the summer months without pay. Does this mean they are eligible for unemployment benefits?

The furlough time is being discussed for employees that require a sub. The furlough time does not make them eligible for unemployment benefits.

55. Since Child Nutrition Employees are paid from Federal Reimbursement Funds and from funds generated from meals sold to students, why are they being included in a "State" furlough when the state has yet to provide any funding for the Child Nutrition program?

EO#11 does not exclude the child nutrition employees, therefore they are included. State funding provides funding for a child nutrition director through the Central Office allotment. In addition the State provides funds for the Kindergarten Breakfast program.