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ADS Chapter 453

Furlough - Civil Service and Foreign Service

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 ADS 453 – Furlough – Civil Service and Foreign Service
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ADS 453 – Furlough – Civil Service and Foreign Service

453.1 OVERVIEW

Effective Date: 09/18/2002

This chapter provides the authorities, policies, and essential procedures to be followed in furlough actions that affect USAID Civil and Foreign Service employees. This chapter pertains to furloughs that are 30 calendar days or less.

453.2 PRIMARY RESPONSIBILITIES

Effective Date: 09/18/2002

- a. The **USAID Administrator** is responsible for making the final decision on the use, extent, and duration of furloughs.
- b. The **Deputy Chief Human Capital Officer, Human Capital and Talent Management (DCHCO/HCTM)** is responsible for carrying out the furlough in consultation with affected Agency management.

453.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

453.3.1 Furlough

Effective Date: 09/18/2002

The Agency must implement a furlough without regard to the race, sex, color, age, religion, national origin, disability, marital status or political affiliation of the affected employees.

Agency management and operating officials shall explore other means of responding to the need for a furlough before implementing a furlough.

A furlough must not last for more than 30 days over a one year period and shall be used only when it seems certain that the reduction is temporary. Furloughed employees must be returned to duty in the position from which furloughed. A furlough is not a commitment of recall.

The Agency must make certain that the burden of any furlough is equitably shared by both FS and CS employees. The Agency must ensure that the sharing of the burden will not interfere with appropriations or the effective and efficient management of the Agency's programs, operations, or resources.

Reduction in force (RIF) procedures must be followed to furlough an employee when the furlough will be for more than 30 consecutive days, or more than 22 work days if done on a noncontinuous basis, and is caused by a shortage of funds or other nondisciplinary reasons (see [ADS 452](#), [455](#), and [456](#)).

The rights and entitlements of employees will be protected during periods of furlough as permitted by statute and regulation.

453.3.2 Notice

Effective Date: 09/18/2002

For furloughs of 30 days or less the employee will be given 30 days advance written notice by letter, cable, or other means stating the specific reasons for the furlough and its duration. There is an exception to the 30 days advance written notice and the opportunity to answer. The exception pertains to unforeseeable circumstances such as sudden emergencies requiring immediate curtailment of activities.

- a. The advance notice of a proposed furlough must include, but is not limited to:
 1. Reason for furlough.
 2. Maximum length of the furlough (more definite and detailed specifications if known, e.g. the specific dates and length of the furlough).
 3. When some, but not all employees in a particular class or competitive level are being furloughed, the notice of proposal must state the basis for selecting a particular employee for furlough.
 4. Notice that regulations and records pertinent to the action are available and location of such regulations and records.
 5. Right of employees to respond within ten workdays to the proposed furlough. Extension of the ten workday time limit must be considered, provided the employee gives specific reasons for the requested extension.
 6. Entitlement to a reasonable amount of official time to prepare response.
 7. Entitlement to representation.
 8. A statement of applicable appeal and grievance rights.
 9. Prohibition of unpaid voluntary services.

- b. The advance written notice and opportunity to respond are not necessary for implementing a furlough without pay when the furlough is due to unforeseen emergency circumstances. Emergency circumstances are:
 - Lapses of appropriations,
 - Sudden breakdowns in equipment,

- Acts of nature, or
- Other circumstances requiring immediate curtailment of activities.

In such cases, the Agency must provide employees as much written notice of furlough action as possible.

- c.** Except for unforeseen and compelling circumstances, employees who wish to respond to the notice of a proposed furlough shall have up to ten workdays either orally or in writing. Written responses must be sent to the DCHO/HCTM together with documentary evidence in support of the appeal. When an employee gives an oral response, the Agency must make a written summary of the conversation. A copy of the summary must be provided to the employee for review. If corrections to the document are necessary, the employee must provide them as expeditiously as possible within three workdays. The DCHO/HCTM, or designee, shall make the final decision in each case.
- d.** Each employee is entitled to a reasonable amount (normally up to four hours) of official time to prepare the response. Employee representatives shall be entitled to a reasonable amount of official time to assist employees with their responses. In making a response, employees have a right to the representative of their choice. However, the DCHO/HCTM retains the right to disallow the choice of an individual as a representative (i.e., including but not limited to conflict of interest). If a representative is disallowed, the Agency must fully state the reasons and provide the employee with reasonable time to find another representative. The Agency's decision will be submitted in writing at the earliest practical date or by the effective date of the furlough.
- e.** The notice of final decision to furlough must include, but is not limited to:
1. Decision and the reasons;
 2. Maximum length of furlough;
 3. Prohibition on unpaid voluntary services; and
 4. Information for employees as to how to submit for management's consideration the employee's preferences for alternate furlough days, if appropriate.

453.3.3 Employee Status While on Furlough

Effective Date: 05/09/2019

- a.** Employees in a furlough status cannot be required to perform official duties, nor can the Agency accept the voluntary services of employees in furlough status.

- b. Employees on detail or other assignment whose salaries are not paid out of the Agency's operating expenses account are not subject to furlough when the reason for the furlough is a shortage of funds.
- c. Employees may engage in outside employment while on furlough subject to the limitations that would normally apply to such employment during normal operations. While USAID employees do not require pre-clearance to engage in outside employment, they must ensure that their outside employment is consistent with all ethics, conflict of interest, and Hatch Act restrictions. Employees should obtain Agency approval for outside employment if there is any possibility that the employment would create a potential conflict of interest or violate the Hatch Act. Requests for approval of outside employment, or questions regarding employee's ethical obligations, may be addressed at ethics@usaid.gov.
- d. Employees on court duty while on furlough may retain court pay.
- e. Employees cannot be furloughed on holidays.
- f. For career tenure, the first 30 calendar days of a furlough is creditable service.
- g. For severance pay, non-pay status is fully creditable for the 12-month continuous employment period requirement. An aggregate of six months non-pay status in a year is creditable service in the computation of severance pay.
- h. For completion of probation, an aggregate of 22 workdays in a non-pay status is creditable service. Non-pay status in excess of the authorized amount extends the qualifying period.
- i. Time spent in furlough status will count toward time-in-class calculations.
- j. For Civil Service within-grade increases - an aggregate of two workweeks non-pay status in a waiting period is creditable service for steps 2, 3 and 4 of the; four workweeks for steps 5, 6 and 7; six workweeks for steps 8, 9, 10. For prevailing rate employees, an aggregate of one workweek non-pay status is creditable service for step 2; three weeks for step 3; four weeks for 4 and 5. For Foreign Service Entitlement to within-class increases remains unchanged by time in a furlough status.

453.3.4 Leave While on Furlough

Effective Date: 09/18/2002

An employee must not be placed on paid leave in lieu of furlough.

For annual and sick leave, an aggregate of no more than six months non-pay status in a year is creditable service in computing annual leave accrual rates.

453.3.5 **Benefits While on Furlough**

Effective Date: 09/18/2002

Health Benefits: Enrollment continues for 365 days with the government continuing payment of its contribution and employees paying for their share. The employee's share shall be deducted from any remaining biweekly pay; if pay is insufficient, the employee may pay the costs either during or after returning from a furlough by check or payroll deduction.

Life Insurance: Enrollment continues for 12 consecutive months without cost to the employee. Any premiums missed because of the furlough are paid by the government.

Retirement: For retirement purposes, an aggregate non-pay status of six months in any calendar year is creditable service. Coverage continues at no cost to the employee while in a non-pay status. When in a non-pay status for a portion of a pay period, contributions are adjusted in proportion to their basic pay.

453.3.6 **Employee Rights**

Effective Date: 09/18/2002

- a. The Agency must not separate a competing employee while an employee with lower retention standing at the same competitive level is on furlough.
- b. A reasonable effort must be made to accommodate expressed personal preferences of employees (e.g., a desire to combine leave without pay and furlough into a consecutive period or a desire to have some income every pay period) when scheduling furloughs to the extent that the proposal is consistent with work requirements and budgetary constraints.
- c. An employee who has been furloughed for more than 30 days may appeal to the Merit Systems Protection Board.
- d. Management's consideration for alternate employee furlough days is dependent management effectiveness, and safety concerns. Employee requests may include, but will not be limited to:
 1. Continuous and discontinuous furlough dates,
 2. Furlough date(s) to coincide with religious observances,
 3. Furlough date(s) to coincide with the beginning or end of the employee's weekly tour of duty, and
 4. Other "good cause" requests for a specific date(s) for furlough.

Employees must be advised in writing of the reason(s), if a request is denied.

- e. Periods of furlough status shall be documented in accordance with established procedures for recording personnel actions (i.e., issuance of an SF-50).
- f. Requests for reconsideration of the Agency's decision must be submitted to the DCHO/HCTM. Every effort will be made to respond to requests for reconsideration within ten workdays. The request for reconsideration must address:
 1. Changes in the employee's personal circumstances that warrant reconsideration and/or,
 2. Substantive changes to previously provided information relating to the Agency's furlough implementation plans.

453.3.7 Furlough – Reduction-In-Force (RIF)

Effective Date: 09/18/2002

- a. The Agency may furlough or separate an employee only when the employee has no right of assignment to another position or turns down an offered position satisfying the assignment right. The Agency decides if a furlough is appropriate; if not, the employee is separated.
- b. The Agency must not separate a competing employee while an employee with lower retention standing in the same competitive level is on furlough.
- c. The Agency must not separate an employee through RIF while an employee with lower retention standing in the same competitive level is on furlough.
- d. If the situation changes and the Agency determines that a furloughed employee cannot be recalled within the one year period, the employee must be separated.
- e. If some, but not all, furloughed employees in a competitive level must be separated, then employees are selected for separation by retention standing beginning with the lowest standing employee. A new RIF notice of separation must be given to furloughed employees at least 30 days prior to the end of the one-year furlough period. The separation of a furloughed employee is a new RIF action and the required essential procedures must be followed (see [ADS 452 CS RIF](#), [454 FS RIF](#), and [455 SES RIF](#)).

If a furloughed employee refuses or does not respond to an Agency notice to return to duty, the Agency may separate the employee by RIF effective on the specified date of recall. A new RIF notice of separation is not required.

453.3.8 Recalling to Duty
Effective Date: 09/18/2002

The Agency must recall employees to duty in the order of their retention standing, beginning with the highest standing employee.

If a law is enacted allowing retroactive payment for period of furlough, then the Agency will change the furlough days to administrative leave days, and compensate each employee accordingly.

453.3.9 Excepted Service Employees
Effective Date: 09/18/2002

Probationers, temporary employees, and non-preference eligibles in the excepted service shall be included in any Agency furlough.

453.3.10 Limited Appointments
Effective Date: 09/18/2002

Limited appointments must not be extended by the number of days in furlough status, nor can such an appointment be extended beyond the five-year maximum.

453.3.11 Part-Time Employees
Effective Date: 09/18/2002

Part-time employees must be furloughed in proportion to their schedule.

453.3.12 Recruitment
Effective Date: 09/18/2002

The Agency must not fill a position, except by internal placement, when an employee on furlough is qualified and available for a position at the same or lower grade from which furloughed.

453.4 MANDATORY REFERENCES

453.4.1 External Mandatory References
Effective Date: 09/18/2002

- a. [5 CFR 351, Reduction in Force](#)
- b. [5 CFR 359, Removal from Senior Executive Service; Guaranteed Placement in Other Personnel Systems](#)
- c. [5 CFR 752, Adverse Actions](#)
- d. [5 U.S.C. 75, Adverse Actions](#)

- e. [5 U.S.C. 3501, Definitions](#)
- f. [5 U.S.C. 3502, Order of retention](#)
- g. [5 U.S.C. 3503, Transfer of Functions](#)
- h. [5 U.S.C. 3504, Preference eligibles](#)
- i. [5 U.S.C. 3595a, Furlough in the Senior Executive Service](#)
- j. [22 U.S.C. 3921, Administration by Secretary of State](#)
- k. [22 U.S.C. 3925, Compatibility between Foreign Service and other Government personnel systems](#)
- l. [22 U.S.C. 3926, Regulations](#)

453.4.2 Internal Mandatory References

Effective Date: 09/18/2002

There are no Internal Mandatory References for this chapter.

453.5 ADDITIONAL HELP

Effective Date: 09/18/2002

There are no Additional Help documents for this chapter.

453.6 DEFINITIONS

Effective Date: 09/18/2002

See the [ADS Glossary](#) for all ADS terms and definitions.

competitive level

A grouping of all positions within a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedule, and working conditions so that reassignment of one employee to any other position within that level may occur without undue interruption. ([Chapter 452](#), 453)

furlough

For the purposes of this chapter, the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but for not more than one year. ([Chapter 452](#), 453)

notice period

The initial period stipulated in the original notice issued to employees which tells the

period of time that they will be carried on the rolls of the Agency prior to their separation or furlough. (**Chapter 453**)

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