

POLICY FOR REQUESTING EXEMPTIONS TO OVERTIME/FURLOUGH REQUIREMENTS REVISED 9-30-09

SUMMARY OF CHANGES TO POLICY

A revision has been made to the University's policy with respect to requesting exceptions to regulations governing overtime and furlough requirements of SB 433. For your convenience, some of these changes are outlined as follows:

- A change was made in the 1-day per month requirement section regarding unpaid furlough leave indicating that a classified employee could take as many as 5 furlough days in a month based on the fact that several months have work days spread across 5 separate calendar weeks. If an employee took 1 furlough day each week they could take 5 during the course of the month. However, such a request would be closely scrutinized as the policy remains unchanged that more than 2 furlough days per month requires "even more significant justification and appeal from the employee."
- The policy highlights that in accordance with State Personnel regulations, **under no circumstance** can overtime (or compensatory time) be authorized within the same work week that unpaid furlough leave is taken.
- Included in the revised policy is the requirement that exceptions must be requested in terms of work units or "blanket" requests – requests for individual exceptions should not be made unless absolutely necessary.
- Language has been added to the policy specifically addressing standby, added regular time and call back pay.
- A table of approvals needed for overtime, standby and call back pay has been added for clarification, and a definition of call back pay based on the Nevada Administrative Code has been included.
- State Personnel's terminology of "reversing out" furlough leave has been used to clarify how this is applied (when necessary) in a situation where an employee is called back to work within the same work week they take unpaid furlough leave; included is an example to assist with understanding.

The requirements surrounding furloughs and related issues have been evolving during the past few months, and the University's policy has been updated to reflect those changes that have emerged since the unpaid furlough leave program began last July. As additional issues are encountered, the policy will be further revised as needed.

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Overall Legislative Intent of SB433:

The State Personnel Department has issued regulations for the implementation of SB433. Two specific areas of focus are (a) the ability to take more than 1 unpaid day per month and (b) the ability to have overtime in a pay period when an employee has taken unpaid furlough leave. The overriding intent of SB433 must be kept in mind when considering any exceptions to the State Personnel Department regulations - that employees end up having approximately 4.6% less salary income in both FY10 and FY11. Since there will be required disclosure reports to the legislature and Board of Regents, it is important that everyone understand that this simple and key evaluation will be made and will likely be the major determining factor as to whether someone feels we addressed the intent of SB433.

UNPAID FURLOUGH LEAVE - EXCEPTION TO THE STANDARD ONE-DAY PER MONTH

- State Personnel Department regulations allow the Chief Fiscal Officer of an institution of NSHE to grant waivers to the normal "1-day per month unpaid leave" requirement. Any exceptions would require written and approved justification from the department. Technically it appears an exception could be granted to allow up to 4 to 5 unpaid leave days in a month. This seems excessive and we are concerned about the personal financial impact on any employee who may feel pressured into taking so many days in one month. However, we believe it is reasonable for supervisors to work with employees to determine if taking up to 2 days per month of unpaid leave would provide more program flexibility and still be acceptable to the employee. Any exceptions above 2 days per month of unpaid leave would require even more significant justification and appeal from the employee.
- Campus programs that have rather unique staffing requirements include, but are not limited to, the following: the Performing Arts Center, Parking & Transportation Services, Campus Police and the Thomas & Mack Center/Sam Boyd Stadium/Cox Pavilion.
- Departments will work with HR to justify, in writing, their requested exception proposal, which will then be reviewed and acted upon by the UNLV Chief Fiscal Officer.

OVERTIME/STANDBY/ADDED REGULAR TIME/CALL BACK PAY EXCEPTIONS

- State Personnel Department regulations allow the Chief Fiscal Officer of an institution of NSHE to grant waivers to the normal "no overtime, standby pay, added regular time, or call back pay" during the same pay period when an unpaid furlough leave day was taken. It is important to note that an approved waiver would not include approval of overtime during the same **work week** as when unpaid furlough leave is taken; but only in alternate week(s) of the pay period. Per State Personnel Department regulations, under no circumstance may overtime (or compensatory time) be authorized within the same work week as when unpaid furlough leave is taken. Further, any and all exceptions would require written and approved justification from the department and the Chief Fiscal Officer.
- **Standby Pay** may be authorized with prior approval of the Chief Fiscal Officer under extreme circumstances within the same pay period and/or work week as when unpaid furlough leave is taken. Extreme circumstances must be documented with written justification and submitted as a package for review; individual requests should not be submitted unless absolutely necessary. An employee may be approved by the Chief Fiscal Officer to be in standby pay status the same work week that unpaid furlough leave is taken without affecting the employee's unpaid furlough leave.
- **Added Regular Time** is not used by the University and therefore will not be addressed here.

- **Call Back Pay** may be authorized with prior approval of the Chief Fiscal Officer within the same pay period and/or work week as when unpaid furlough leave is taken. Call back pay must be documented with written justification and submitted as a package for review; individual requests should not be submitted unless absolutely necessary. The first two hours of call back pay is paid at the time and a half (1.5) rate if the employee is called back on their scheduled time off and the employer did not notify the employee of the need to work before the completion of his or her last normal working day. If the call back occurs within the same work week as the furlough leave, the first 2 hours are to be recorded without reversing any furlough leave time. However, any additional hours worked beyond the first 2 hours of call back pay must be offset against the furlough leave time and that portion worked beyond the first 2 hours reversed out against the furlough leave. The employee then must be responsible for making up the number of hours of the reversed out furlough leave, preferably within the same pay period but at least within the same month. Given these state defined restrictions it is clear that call back hours during the same week as an unpaid leave have added complexity and stress for the individual employee.

EXAMPLE: An employee's 8 hour unpaid furlough day is on Monday of the first work week of a pay period. She is then scheduled to work 8 hours each day on Tuesday, Wednesday, Thursday and Friday of the same work week. On Saturday, the employee is called back to work for 3 hours without having been notified of the need to work the previous day (on Friday). The employee must be paid at the time and a half rate (1.5) for the first two hours of her call back time on Saturday, and straight time for the third hour of work (if the employee was notified of the Saturday work on Friday, all 3 hours would be at the straight time rate). Also, 1 hour of unpaid furlough leave on Monday is reversed out because of the time she worked on Saturday, so that she now has only 7 hours of unpaid furlough leave for the month and must take 1 additional hour of unpaid furlough leave, preferably within the same pay period but certainly she must do so within the month.

- The following table is offered to assist in determining what approval is needed prior to the assignment of pay listed:

	Unpaid Furlough Leave Week	Outside Furlough Week But Within Pay Period	Outside Pay Period Containing Unpaid Furlough Leave
Authorized Overtime	NOT ALLOWED REGARDLESS	OK with prior CFO written approval thru HR	Normal procedure- OK with supv. approval
Authorized Call Back Pay*:	OK with prior CFO written approval thru HR	OK with prior CFO written approval thru HR	Normal procedure- OK with supv. approval
Call Back Pay: 2 hrs./occurrence	See footnote 1 below	OK with prior CFO written approval thru HR	Normal procedure- OK with supv. approval
Call Back Pay: 2+hrs/occurrence	See footnote 2 below	OK with prior CFO written approval thru HR	Normal procedure- OK with supv. approval
Authorized Standby Pay	OK with prior CFO written approval thru HR	OK with prior CFO written approval thru HR	Normal procedure- OK with supv. approval

*Call Back Pay is defined as the pay an employee receives if the employer calls him or her back to work during scheduled time off without having notified the employee before the completion of his or her last normal working day.

1: Employee paid at 1.5 rate for the 2 hours of call back, also no hours are reversed out against furlough leave; therefore, no hours must be made up.

2: Over 2 hrs.: first 2 hrs. paid at 1.5 rate, additional hours paid at straight time; all call back hours after the first 2 must be reversed out against furlough leave and must be made up, preferably within the same pay period but at least within the month.

- Campus programs that have rather unique staffing requirements include, but are not limited to, the following: Facilities where they are not staffed "deep" enough in some shops to have enough employees to fill in, particularly in situations of heavy workloads, and in the case of emergency calls into work if needed when restricted by the "pay period rule." As well, the Library operates on a seven day a week schedule and therefore must cover more open hours than most other offices on campus. Strict adherence to the "pay period rule" will certainly ham-string their operations as they run the risk of staff calling in unable to work or not showing up for late shifts, and they need to have as much remaining flexibility as possible to cover service desks in these situations. In addition the Performing Arts Center, Parking and Transportation Services, Campus Police and the Thomas and Mack Center/Sam Boyd Stadium/Cox Pavilion programs have similar issues, given their requirement to directly support internal and external events on campus.
- Any department granted an exception to the standard use of overtime/standby/call back pay is required to track the use of overtime and these other types of premium pay compared to FY09 "normal" uses and have supporting information to show that the overall intent of SB433 was being met, and that there was not additional overtime or other pay granted to compensate for the required unpaid furlough leave reduction.
- In general it seems reasonable to assume that staff of performance/activity venues on campus would have to use the overtime exemption in conjunction with an adjustment to the normal 1-day per month unpaid furlough leave, as each program has high and low points of activity during the fiscal year.
- Departments will work with HR to justify, in writing, their requested exception proposal, which will then be reviewed and acted upon by the UNLV Chief Fiscal Officer. As noted above, it is assumed that many overtime exception requests would be combined with exception requests to the standard 1-day per month unpaid furlough leave requirement. It must be emphasized that **approved overtime exceptions would allow for overtime within the same pay period but not within the same work week as when unpaid furlough leave is used.**

CONTACT WITH QUESTIONS

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