

UNIVERSITY of NORTH DAKOTA
HUMAN RESOURCES & PAYROLL SERVICES OFFICE PROCEDURE LIBRARY

REDUCTION IN FORCE/MANDATORY FURLOUGH

Procedure: Reduction in Force/Mandatory Furlough
Responsible Executive: Director of Human Resources & Payroll Services
Responsible Office: Human Resources & Payroll Services
Issued:
Last Review / Revision: March 23, 2015



REASON FOR PROCEDURE

For consistency with North Dakota University System (NDUS) Human Resource Policy Manual Section 24, the University of North Dakota (UND) created procedures utilized in its approval of a reduction in force (RIF) or mandatory furlough.

CONTACTS

Specific questions should be directed to the following:

Subject	Contact	Telephone	Office or Department E-Mail / Web Address
Procedure Clarification	Human Resources and Payroll Services	701-777-4361	UND.humanresources@UND.edu http://UND.edu/finance-operations/human-resources-payroll/

DEFINITIONS

CFR	Code of Federal Regulations. The codification of the general and permanent rules published in the <i>Federal Register</i> by the departments and agencies of the federal government.
Exempt Status	An employee who is defined by the Fair Labor Standards Act (FLSA) as being exempt from minimum wage and overtime requirements. According to the Wage and Hours Division of the US Department of Labor, only “bona fide executive, administrative, professional and outside sales employees” who meet certain requirements are exempt from minimum wage and overtime laws.
FLSA	Fair Labor Standards Act. Established minimum wage, overtime pay, recordkeeping, and youth employment standards for employees in the private sector and in federal, state, and local governments.
Mandatory Furlough	A temporary reduction in force of an employee due to special needs of an institution, which may be due to economic conditions at the department/institution or the economy as a whole.

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North Dakota University System (NDUS)	North Dakota’s unified system of higher education governed by the State Board of Higher Education.
Non-exempt Status	An employee who is entitled to the minimum wage and/or overtime pay protections of the FLSA.
Reduction in Force (RIF)	The act of reducing hours worked, suspending, or involuntarily separating an employee for lack of work, funding, or because of a re-organization.
Regular Staff Employee	A person who satisfactorily completes a probationary period, (See Section 4) who is appointed to a continuing position, and who is employed at least seventeen and one-half hours per week if hired before August 1, 2003 or twenty hours per week if hired on or after August 1, 2003, and at least twenty weeks each year.
Temporary Staff Employee	A person employed in a position of intermittent or limited duration not to exceed one year, a seasonal position, or in a position working less than 20 hours per week. A temporary staff employee may be terminated at any time with or without cause.

PRINCIPLES

OVERVIEW – When necessary to achieve a reduction in force (RIF) or mandatory furlough, UND may reduce the number of hours worked or terminate any staff employee due to an organizational or procedural change, diminished workload, lack of funds, or other exigency. The employee will be given at least two weeks written notice of the reduction/furlough. At UND’s discretion, employees who are terminated may be given two weeks’ pay in lieu of the two weeks’ notice.

UND may not subject regular staff employees to a RIF or mandatory furlough while there are temporary or probationary employees engaged in the same work and serving in the same work unit. UND will conduct reductions in force and mandatory furloughs in a non-discriminatory manner and will not use such actions as a substitute for disciplinary measures.

PROCEDURES

Reduction in Force

DOCUMENTATION – Based upon departmental need and work to be performed, the department head will determine which employees will be subject to reduction in force. A Reduction in Force/Mandatory Furlough Worksheet must be completed to determine which employee(s) will be affected. The department must consider the following factors:

1. An analysis of the acquired knowledge, demonstrated skills, and versatility of its employees compared to the work to be done and the available funding. Employees lacking the necessary skills and versatility should be considered for reduction.
2. An analysis of the demonstrated level of work performance. Employees having a consistently low level of performance, as demonstrated by performance evaluations, should be considered for reduction.
3. A review of the length of service of its employees. Employees with the fewest years of service should be considered for reduction.
4. An analysis of the extent of required training needed to train a reassigned employee to full productivity in a different position. Employees requiring substantial retraining should be considered for reduction.
5. Any documentation concerning the position.

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The original written documentation of the analysis and review must be submitted to Human Resources for approval. Human Resources will serve as the office of record for this information and will retain a copy of the analysis and review according to the UND Records Retention policy.

PROTECTION AND BENEFITS AFFORDED REDUCTION IN FORCE EMPLOYEES – Within two years from the date of the action, rehiring of employees affected by a reduction in force or mandatory furlough will be reinstated in the reverse order, when a similar job becomes available in the department where they work(ed).

Employees not on probation when terminated as a result of a RIF and rehired within two years will be credited with:

1. Previous service for the purpose of determining annual leave accrual rates; and
2. Sick leave hours accumulated prior to the reduction, less the amount paid pursuant to NDUS Human Resource Policy Manual 7.5.

Employees not on probation when terminated as a result of a RIF will, for two years following the reductions, be provided the following additional services:

1. To the extent possible, UND will assist terminated employees in searching for other employment.
2. The Human Resource Council will maintain a list of employees, including their qualifications, who were terminated due to a reduction in force. This list will be made available to all institutions for employment considerations. Individuals from this list will be treated as internal applicants by the hiring institution.
3. To assist in retraining efforts, employees terminated due to a reduction in force may continue to utilize the North Dakota University System's employee tuition waiver as defined in NDUS Human Resource Policy Manual 33.

Mandatory Furlough

DOCUMENTATION – Based upon departmental need and work to be performed, the department head will determine which employees will be subject to mandatory furlough. A Reduction in Force/Mandatory Furlough Worksheet must be completed to determine which employees will be affected. The department must consider the following:

1. Documentation of inadequate funding to maintain current operation.
2. Review of current workload, skills, and funding sources of current employees.
3. Analyze data and identify individuals for possible furlough(s) based on analysis of workforce needs (maybe across the board by group(s)).

The original written documentation of the analysis and review must be submitted to Human Resources for approval. Human Resources will serve as the office of record for this information and will retain a copy of the analysis and review according to the UND Records Retention policy

Furloughs that continue for an extended period of time may ultimately result in a reduction in force and RIF procedures must be followed.

Based on criteria in items 1-3 above and 29 CFR § 541.710(b) (as applicable to exempt employees), employees may request, or be required, to take accrued annual leave in lieu of a mandatory furlough. The department must determine the number of hours of annual leave that the employee will take during the furlough and include it in the notification to the employee.

Employees placed on mandatory furlough must be paid for all hours worked and are not allowed to volunteer to perform any duties beyond the hours for which they are paid.

PROTECTION AND BENEFITS AFFORDED MANDATORY FURLOUGH EMPLOYEES –

Employees furloughed will be allowed to retain:

1. Benefits coverage; and
2. Previous service for the purpose of determining annual leave accrual rates.

NON-EXEMPT BENEFITTED EMPLOYEES – The department will provide non-exempt benefitted employees with a minimum of two weeks-notice of any reduction in hours. Employees working any hours during a mandatory furlough must have supervisor approval and will be paid on an hourly basis for all hours worked.

EXEMPT EMPLOYEES – Furloughs for public agency exempt employees are allowed under 29 CFR § 541.710 (b). This administrative rule allows a public employer to require exempt employees to take unpaid time off without violating the exempt salary rules, if it is due to a budget-required furlough. The department will provide exempt employees with a minimum of two weeks-notice of any reduction in hours.

If the department mandates unpaid time off in a workweek, the department must convert the salaried employee to an hourly employee for each workweek the employee is required to take unpaid time. A department may require unpaid time off for a specified period of time or intermittently. If an exempt employee does not work any hours during an entire workweek, the department is not required to pay them any salary. If any hours are worked during a workweek, the exempt employee must be paid their normal hourly wage for all hours worked, and must earn a minimum of \$455 in any work week in which they work one or more hours. In addition, if for some reason an exempt employee were to incur overtime in a work week in which the employee had been converted to hourly pay, the department is required to pay any hours worked over 40 in a work week at the hourly rate of time and one half.

RELATED INFORMATION, RESOURCES & FORMS

29 CFR § 541.710 – Employees of Public Agencies	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=48d6ee3b99d3b3a97b1bf189e1757786&rgn=div5&view=text&node=29:3.1.1.1.23&idno=29#se29.3.541_1710
Department of Labor Wage and Hour Division	http://www.dol.gov/WHD/
Fair Labor Standards Act	http://www.dol.gov/whd/flsa/
NDUS Human Resource Policy Manual 1.2 – Equal Opportunity Employer	http://ndus.edu/makers/procedures/hr/?SID=20&PID=222&re=d
NDUS Human Resource Policy Manual 2 – Appointments	http://www.ndus.nodak.edu/makers/procedures/hr/?SID=21&PID=223&re=d
NDUS Human Resource Policy Manual 24 – Reduction in Force	http://www.ndus.nodak.edu/makers/procedures/hr/?SID=43&PID=245&re=d
NDUS Human Resource Policy Manual 33 – Continuing Education for Employees	http://ndus.edu/makers/procedures/hr/?SID=52&PID=254&re=d
NDUS Human Resource Policy Manual 7.5 – Lump Sum Payment of Sick Leave	http://ndus.edu/makers/procedures/hr/?SID=26&PID=228&re=d
Mandatory Furlough Notice	http://UND.edu/finance-operations/human-resources-payroll/files/docs/mandatory-furlough-notice-2015-05-26.pdf

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Reduction in Force/Mandatory Furlough Worksheet	http://und.edu/finance-operations/human-resources-payroll/files/docs/ndus-rif-analysis-worksheet2.doc
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REVISION RECORD

3/23/2015 – Procedure Implementation	
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