



South Carolina  
**DEPARTMENT OF AGRICULTURE**  
**HUMAN RESOURCES DEPARTMENT**

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## **FURLOUGH AND LEAVE WITHOUT PAY (LWOP) POLICY**

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

### **I. FURLOUGH POLICY**

As long as authorized by the General Assembly, the agency director may institute a voluntary furlough program in a fiscal year in which the general funds appropriated for a State agency are less than the general funds appropriated for that agency in the preceding fiscal year, or whenever the General Assembly or the South Carolina Department of Agriculture (SCDA) implements a midyear across-the-board budget reduction. Set forth below is the SCDA's Voluntary Employee Furlough Program when the above conditions have been met.

### **II. ELIGIBILITY**

Employees in full-time (FTE) positions, time-limited positions, and temporary grant positions are eligible to participate in the voluntary furlough program.

### **III. PROCEDURES**

- A. Voluntary furlough may be requested by an employee in lieu of paid leave in order for the employee to be away from work.
- B. Any employee desiring to go on a voluntary furlough shall submit the request to his/her supervisor. By completing the leave request the employee certifies that he/she has reviewed these guidelines and is aware of the requirements. The furlough can be taken only upon the approval of the employee's supervisor, Assistant Commissioner, and Human Resources. To the degree possible, SCDA will attempt to honor the furlough request. However, the consideration of workloads, work distribution, and similar factors may necessitate that the furlough not be taken or be taken at a different time. Under no circumstances will any SCDA

official deviate from the SCDA Affirmative Action policy in making any decisions concerning voluntary furlough. Denial of any voluntary furlough request will be made in consultation with the Assistant Commissioner.

- C. Furloughs may be requested in any amount from one (1) day to ten (10) consecutive workdays. The total amount of furlough days under this program may not exceed ninety (90) calendar days per fiscal year.
- D. This program is completely voluntary. No employee can be forced or coerced into going on a furlough under this program. Any employee who submits a leave request for a voluntary furlough thereby acknowledges that he or she has done so without any coercion, undue influence, threat, or intimidation of any kind or type.
- E. While on furlough, the employee will be placed in leave without pay status, without a break in service and with the continuing accumulation of sick and annual leave.
- F. While on furlough, the employee is subject to all policies and procedures of SCDA applicable to employees in leave without pay status. During a voluntary furlough, the employee shall be entitled to participate in the same State benefits as otherwise available to him/her except for receiving a salary.
- G. SCDA's Voluntary Furlough Program is not intended to take the place of the extended disability provision of the Department of Administration's Division of State Human Resources Regulations.

### **IV. PAYMENT OF BENEFITS**

As to those benefits, which require employer and employee contributions, SCDA will be responsible for making both

employer and employee contributions if coverage would otherwise be interrupted. Due to the duration of the voluntary furlough program being limited to ten (10) consecutive workdays or less at any one time, benefits coverage would not be interrupted. SCDA will not be responsible for the employee portion of the health, dental and/or vision insurance premiums.

The employee is solely responsible at all times for making any payments for any benefit that requires employee payments. If there will be no paycheck from which to make deductions, the employee will be solely responsible for ensuring that payment is made for any benefit that requires employee payments. In no case will SCDA assume any responsibility for these deductions. The employer contributions would continue in the same manner. Human Resources will communicate the options available, in each circumstance, to the employee.

## **V. LEAVE WITHOUT PAY POLICY**

It is the policy of SCDA that an employee generally should request the use of appropriate accumulated annual and/or sick leave prior to requesting Leave Without Pay (LWOP). SCDA recognizes circumstances may become such that an employee may need to request LWOP for medical or personal reasons. Additionally, when it becomes necessary for SCDA to suspend employees for disciplinary reasons, such employees will be placed on LWOP status. The following are procedures for non-disciplinary LWOP.

### **A. Medical Reasons for LWOP**

1. Absences for qualifying reasons of illness or injury to the employee under the Family and Medical Leave Act (FMLA) (see Family and Medical Leave Act Policy).
2. Other illnesses or injuries that may not qualify under FMLA (see Sick Leave Policy).
3. Illnesses or injuries covered by Workers' Compensation (see Workers' Compensation Policy).

Under the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and other applicable law, certain extended impairments may be protected as disabilities and may require reasonable accommodation. In certain cases, the use of leave may be considered a reasonable accommodation. The determination regarding reasonable accommodations will be made on a case-by-case basis as dictated by the circumstances.

SCDA shall require, prior to approval of leave as a reasonable accommodation, certification by the health care practitioner to a reasonable degree of medical certainty to include at a minimum: (a) the date on which the disability commenced; (b) the probable duration of the condition and a probable return date; and (c) appropriate medical facts within the knowledge of the health care practitioner regarding the condition and any work limitations. Dates set forth in the health care practitioner's certificate may be amended. SCDA may require additional documentation from the health care practitioner issuing the certificate or may secure additional medical opinions from other health care practitioners.

The employee shall have the option of using or retaining accrued annual leave prior to leave without pay for a disability. The employee shall use all sick leave before going into leave without pay status unless the Assistant Commissioner at his/her discretion grants an exception at the employee's request.

### **B. Personal LWOP**

Leave without pay requests not covered by the proceeding provision or other State policy must be submitted by the employee in writing to the appropriate Assistant Commissioner for approval in advance except in a case of medical or personal emergencies. These situations must be justified to the employee's Assistant Commissioner for approval. Human Resources must be notified of any leave without pay situation.

### **C. Other Consideration of LWOP**

All LWOP must be requested and approved prior to being taken by an employee, except in extenuating circumstances. Failure to do so would place the employee in an unauthorized leave status, which may subject the employee to disciplinary action.

Every attempt will be made to maintain consistency in the approval/disapproval of LWOP for personal reasons (other than FMLA qualifying reasons). Such leave is considered a privilege that may be given to employees based on the following considerations:

1. The nature of the employee's request.
2. The length of leave.
3. The number of LWOP requests.
4. The employee's work history.
5. Departmental staffing and workload considerations.