

## **Frequently Asked Questions During Partial Government Shutdown**

This document is intended to address frequently asked questions that employees may have in the event there is a partial government shutdown. The answers below apply to both represented and non-represented positions unless indicated otherwise.

**1. Can temporarily laid off employees be in travel status?**

If an employee is temporarily laid off or is placed on emergency leave without pay (LWOP) status they cannot be in travel status. The employee must no longer be in travel status before the temporary layoff or emergency LWOP begins.

**2. If an employee is not temporarily laid off because the employee is needed to perform constitutionally required duties, is it permissible for this employee to utilize preapproved paid vacation leave during the time the agency is in reduced operations?**

No. Either the employee's vacation leave is cancelled and he/she performs his/her constitutionally required duties or the employee is temporarily laid off allowing the employee to continue with their vacation plans, absent pay.

**3. If an employee is not temporarily laid off because the employee is needed to perform constitutionally required duties, is it permissible for this employee to call in sick or go to a doctor's appointment during the time the agency is in reduced operations?**

Yes.

**4. How is the OFM State Human Resources (SHR) Director's Review Program and the Personnel Resources Board (PRB) going to handle case filings in the event there is a closure due to temporary layoff?**

In the event of a closure due to temporary layoff, the period of time for filing Director's Review requests and PRB appeals will be computed by excluding the first day of the period and including the last day. If the last day is a day that OFM SHR is closed due to a temporary layoff, the time period ends on the next business day.

**5. Can a temporarily laid off employee be placed on standby?**

Employees should be placed on temporary layoff and callback if they are needed to return to work. However, if the employer requires a particular employee to be placed on standby in case of an emergency, and it is noted in the agency's contingency plan, the employer may put the employee in standby status.

**6. Can employees volunteer to perform their duties during a government shutdown?**

No, employees cannot volunteer to perform their duties during a government shutdown.

**7. When should employee's leave that is scheduled for on or after July 1<sup>st</sup> be rescinded?**

Depending upon the agency's leave system, agencies must direct employees, supervisors or payroll to cancel leave prior to payroll cutoff for the July 1<sup>st</sup> through July 15<sup>th</sup> pay period to ensure employees are not over paid.

**8. How should agencies deal with requests for vacation leave for July 1st or later?**

Agencies may approve vacation leave requests with a contingency that the leave will be cancelled if there isn't an enacted budget funding the employee's position. We ask that agencies use the following language: "The approval of your vacation leave is dependent upon the provisions of an enacted 17-19 budget." Please do not describe the employee's work as "essential" or "non-essential" or the staff as "essential" or "non-essential" staff. Agencies should use the three criteria in the contingency plan request letter.

**9. Substitute House Bill 1521 removes the provision requiring six months of continuous employment prior to using vacation leave accrued, how does this effect vacation leave requests for July 1 or later?**

The answer to this question is basically the same answer as above. However, it becomes a little more complicated if the provisions of the tentatively agreed to CBAs are not funded. As this time, agencies may approve the requested vacation leave but state: "The approval of your vacation leave is dependent upon the provisions of an enacted 17-19 budget."

**10. If an employee was planning to use leave in July to bring their vacation leave balances below 240 hours before their anniversary date, will they lose their leave?**

There is no provision in the rule or the collective bargaining agreements (CBAs) to protect their excess vacation leave. An option may be to use leave sometime in June or to donate their vacation leave to an employee approved for shared leave. Otherwise, the leave in excess of 240 hours will be lost.

**11. How does an agency handle employees on inactive leave without pay (LWOP)?**

Employees should receive a layoff notice and should be taken off the inactive LWOP. If the layoff does not happen and the notice is rescinded prior to July 1 then the employee goes back on inactive LWOP. If the layoff occurs, the employee is covered and can be switched back to the inactive LWOP. This is the best way is to ensure all legal requirements are met.

**12. If a budget is signed into law and the temporary layoff is rescinded late night or early in the morning, are employees expected to be at work at the beginning of their next scheduled shift that morning?**

Employees are generally expected to return to work their next scheduled shift after the temporary layoff is rescinded. However, we encourage agencies to be flexible with employees about their return date and time. Employees may have childcare or other personal issues that need to be taken care of prior to their return to work.

**13. If a temporary layoff is implemented due to the lack of an operating or capital budget and lasts until July 5<sup>th</sup> or later, will temporarily laid off employees be compensated for the July 4<sup>th</sup> holiday?**

If there isn't an enacted operating or capital budget until after the July 4<sup>th</sup> holiday, temporarily laid off employees will not receive holiday pay for the July 4<sup>th</sup> holiday.

**14. If an employee has received a temporary layoff notice and is schedule to work after midnight on June 30<sup>th</sup>, at what point will the employee be required to stop working?**

Current budget appropriations lapse at midnight on June 30<sup>th</sup>. If an employee is scheduled to work beyond midnight on June 30<sup>th</sup> and has received a temporary layoff notice, the employee will need to end his or her work shift prior to midnight.

**15. Can an employee who has been temporarily laid off due to partial government shutdown continue to receive compensation for shared leave?**

No. If the employee has been temporarily laid off due to a partial government shutdown they cannot receive shared leave compensation.

**16. Can an employee who is on FMLA leave be temporarily laid off in the event of a partial government shutdown? Can an employee on FMLA leave use paid leave during a temporary layoff?**

An employee who is on FMLA leave can be temporarily laid off in the event of a partial government shutdown. If the employee is temporarily laid off they cannot use paid leave during the temporary layoff.