

Wisconsin Human Resources Handbook

Chapter 736

Release, Reassignment and Interchange of Employees Due to Emergency Situations and Inclement Weather

Sec. 736.010	Introduction	Sec. 736.070	Treatment of Absences Due to Closing of State Offices and Emergency Situations
Sec. 736.020	Coverage		
Sec. 736.030	Statutory and Rule Authority	Sec. 736.080	FLSA, Make-Up Time, & Leave Without Pay
Sec. 736.040	Definitions	Sec. 736.090	Temporary Reassignment
Sec. 736.050	Notification of Order to Close State Offices	Sec. 736.100	Temporary Interchange
Sec. 736.060	Treatment of Absences Due to Inclement Weather	Sec. 736.110	Referral of Questions
		Sec. 736.120	Administrative Information

Sec. 736.010 Introduction.

It is recognized that emergency situations may arise necessitating the need for:

1. Release of employees from assignments for periods of time for their own safety or well-being; or
2. Temporary assignment of work to employees which is not normally performed or described in their position descriptions; or
3. A temporary interchange of employees between agencies.

Policies and procedures covering such release, temporary assignment, or interchange are set forth in this chapter.

Sec. 736.020 Coverage.

The provisions of this chapter apply as follows:

1. Except as provided in 2., below, the provisions have full application to all individuals who meet the definition of "employee" under section 736.040, of this chapter.
2. The provisions have limited application to public safety employees covered by a collective bargaining agreement.

NOTE: Represented public safety employees whose contract includes specific provisions for the emergency release of employees from duty in the event of inclement weather, hazardous driving conditions, or other emergency situations shall be governed by and act in accordance with the provisions contained in the current contract. If the situation occurring is not covered under the negotiated agreement, the employees will be subject to the policies and procedures set forth in this chapter.

3. The provisions do not apply to other employee groups.

Sec. 736.030 Statutory and Rule Authority.

1. The governor may order some or all of the offices and other work stations of the departments of state government closed for specified periods of time or may order such other deviations in office hours or the standard basis of employment as may be necessitated by weather conditions, energy shortages or emergency situations. The governor's order may specify how any time off or other deviation occasioned by the order may be covered for state employees." s. 230.35(5)(c), Wis. Stats.
2. Section 230.35, Wis. Stats., and Chapter ER 18, Wis. Adm. Code contain provisions for the use of paid and unpaid leave to cover absences from work for employees.
3. "Notwithstanding ss. 230.047 and 230.29, when an appointing authority determines and declares in writing to the governor that an emergency exists which is the result of natural or human causes which adversely affects the effective administration of state agency program functions that are necessary to the well-being of the citizens of this state, the appointing authority may temporarily assign work to employees which is not normally performed by them or described by their position classifications. Such temporary assignments during these emergencies may not exceed 72 hours unless an extension is approved by the governor or his or her designee." s. 20.922(2), Wis. Stats.
4. "Notwithstanding ss. 230.047 and 230.29, in the case of an emergency which is the result of natural or human causes, state agencies may cooperate to maintain required state services through the temporary interchange of employees. The interchange of employees may be of 2 types: where an appointing authority declares an emergency in writing to the governor; or where the governor or his or her designee declares an emergency. If an appointing authority declares an emergency, the interchange of employees is voluntary on the part of those employees designated by the sending state agency as available for interchange. If the governor or his or her designee declares an emergency, the governor may require a temporary interchange of employees. An emergency which is declared by an appointing authority may not exceed 72 hours unless an extension is approved by the governor or his or her designee. An employee who is assigned temporary interchange duties may be required to perform work which is not normally performed by the employee or described in his or her position classification. An interchange employee shall be paid at the rate of pay for the employee's permanent job unless otherwise authorized by the administrator of the division of personnel management in the department of administration. State agencies receiving employees on interchanges shall keep appropriate records and reimburse the sending state agencies for authorized salaries and expenses. The administrator of the division of personnel management in the department of administration may institute temporary pay administration policies as required to facilitate the handling of such declared emergencies." s. 20.901(1)(b), Wis. Stats.
5. Section ER 47.07, Wis. Adm. Code, provides the following:
"Supplemental pay and benefits. (1) A receiving agency other than a receiving agency of this state may provide supplemental pay and benefits to the employee for the duration of the interchange. Such supplemental pay and benefits may be paid by the receiving agency to the employee, or may be paid by the sending agency from funds supplied by the receiving agency, provided the payment is separate from pay and benefits under statutory or contractual provisions.
(2) An eligible employee under s. ER 47.03 who is on interchange to any office, department or independent agency in the executive, legislative or judicial branches of this state or any authority established under chs. 231, 233 or 234, Stats., may not receive supplemental pay or benefits.
6. The State of Wisconsin Compensation Plan contains provisions regarding overtime during a declared emergency.

Sec. 736.040 Definitions.

For purposes of this chapter, terms are defined as follows:

1. “**Employee**” means any person who receives remuneration for services rendered to the state under any employer-employee relationship in the classified or unclassified service *except*:
 - a. Elected officials;
 - b. Employees of the University of Wisconsin;
 - c. Unclassified staff of the legislature not identified under s. 20.923(4), Wis. Stats.;
 - d. Unclassified staff of a legislative service agency under subch. IV of ch. 13, Wis. Stats.;
 - e. Stenographers employed under s. 230.08(2)(g), Wis. Stats.; and
 - f. Staff of the state court system.
2. The following employees are designated as “essential” and may be required to report to work, despite the emergency condition: those employees whose job duties include the provision or support of an emergency response, public health, or public safety function, and whose absence would compromise delivery of essential public health, public safety, or emergency response functions.

Sec. 736.050 Treatment of Absences Due to Inclement Weather

In the event of localized inclement weather which impacts operations but does not require an immediate or planned closure, agency heads may act independently to address the situation. Most often in this situation, employees may not be able to arrive at work on time, or at all, or may request to leave early. The appointing authority has discretion to declare inclement weather and is not required to notify the DOA Secretary (or designee) or the DPM Administrator (or designee), unless a state office or building closure becomes necessary.

Employees *may request or be allowed* to be excused from work when they believe weather conditions make it unsafe to get to or remain at work. The appointing authority may charge any such approved absence to the appropriate paid leave type designated by the employee *or* require the employee to make up the lost time. The employee may be given the additional option of taking leave without pay at the discretion of the appointing authority. Make-up time and leave without pay are subject to the restrictions contained in section 736.080, of this chapter.

Sec. 736.060 Notification of Order to Close State Offices

When emergency conditions exist that impact operations, including but not limited to inclement weather, every effort will be made to keep impacted state offices or buildings open and operating as normal. However, where the health and safety of citizens would be placed at risk, or conditions or events prevent the normal operation or services of state agencies, it may become necessary to close state offices and buildings, pursuant to s. 230.35(5)(c), Wis. Stats.:

“The governor may order some or all of the offices and other work stations of the departments of state government closed for specified periods of time or may order such other deviations in office hours or the standard basis of employment as may be necessitated by weather conditions, energy shortages or emergency situations. The governor’s order may specify how any time off or other deviation occasioned by the order may be covered for state employees.”

Agency heads have authority to declare an inclement weather event as outline in Sec. 726.050 and may close an office building or location to the public. Under the statute, only the Governor may close a building to both the public and state employees. However, the Governor may delegate this closure authority to agency heads. These procedures and authorities will be outlined annually in the State of Wisconsin Executive & Agency Emergency Closure Policy.

Sec. 736.070 Treatment of Absences Due to Closing of State Offices and Emergency Situations

Unless directed otherwise by the DPM Administrator or in an executive order, absences of employees will be treated as follows:

1. Employee Requests or Opts to be Excused
 - a. Employees *may request or be allowed* to be excused from work when they believe that weather conditions or emergency situations make it unsafe to get to or remain at work.
 - b. The appointing authority may charge any such approved absence to the appropriate paid leave type designated by the employee *or* require the employee to make up the lost time. The employee may be given the additional option of taking leave without pay at the discretion of the appointing authority. Make-up time and leave without pay are subject to the restrictions contained in section 736.080, of this chapter.
2. When Employees are Ordered to Leave or Not Report
 - a. Employees *may be ordered* to leave or not report to work because the governor has determined that conditions exist which are detrimental to the health and safety of employees.
 - b. When employees are *ordered* to leave or not report, they will have the following options, subject to the restrictions contained in section 736.080, of this chapter:
 - 1) Using accrued annual leave, accrued holiday time, or accrued compensatory time;
 - 2) Taking leave without pay; or
 - 3) Making up the lost time at a time to be scheduled by the appointing authority.

Sec. 736.080 Fair Labor Standards Act, Make-Up Time, and Leave Without Pay

1. Non-Exempt Employees
 - a. The appointing authority will require that make-up time be scheduled during the current work week, if necessary, to avoid overtime hours in future work weeks.

EXAMPLE:

A non-exempt employee worked 32 hours by the end of the day on Thursday. Overnight there was a snowstorm. The employee felt the weather was too hazardous to make it to work on Friday. If the employee makes up the eight hours of lost time on Saturday, the employee works 40 hours in the affected work week.

On the other hand, if the non-exempt employee is permitted to make up the time on Sunday, rather than Saturday, and in addition works a regular 40-hour weekly schedule, the employee would normally be entitled to overtime compensation for all hours worked in excess of 40 hours that work week.

- b. Leave without pay deductions may be made for hourly *nonexempt* employees in any time increments necessary to cover the time lost.

2. Exempt Employees

- a. The employing agency has more flexibility in scheduling the make-up time for employees who are exempt from the overtime provisions of the FLSA and, therefore, are normally not paid for overtime hours. However, if the affected exempt employees are entitled to premium rate for overtime pursuant to the Compensation Plan, the appointing authority should require that make-up time be scheduled during the current workweek, if necessary, to avoid overtime hours in future workweeks.
- b. Leave without pay deductions may be made for *exempt* employees in any time increments necessary to cover the time lost.

Sec. 736.090 Temporary Reassignments During Emergency Situations

Section 20.922(2), Wis. Stats., provides that during emergency situations, following written notification to the governor, an appointing authority may temporarily reassign work to employees which is not normally performed by them or described by their position classifications. Such temporary assignment shall not exceed 72 hours unless an extension is approved by the governor or his or her designee.

Sec. 736.100 Temporary Interchange of Employees During a Declared Emergency

- 1. Notwithstanding ss. 230.047 and 230.29, Wis. Stats., regarding Temporary Interchange of Employees and Transfers, respectively, section 20.901(1)(b), Wis. Stats., provides that, in an emergency situation, state agencies may cooperate to maintain required state services through the temporary interchange of employees.
 - a. Where an *appointing authority* declares an emergency in writing to the governor, the interchange of employees shall be voluntary on the part of those employees designated by the sending state agency as available for interchange and may not exceed 72 hours unless an extension is approved by the governor or his or her designee.
 - b. Where the *governor* or his or her designee declares an emergency, the governor may require a temporary interchange of employees.

2. Rate of Pay

- a. Unless otherwise authorized by the DPM Administrator, pursuant to s. 20.901(1)(b), Wis. Stats., the provisions of s. ER 47.05(1)(a) and (b), Wis. Adm. Code, shall determine employee compensation during a temporary interchange. *Wisconsin Human Resources Handbook* Chapter 520 contains the provisions for overtime during declared emergencies.
- b. Pursuant to s. 20.901(1)(b), Wis. Stats., state agencies receiving employees on interchanges shall keep appropriate records and reimburse the sending state agencies for authorized employee salaries and expenses.
- c. Pursuant to s. 20.901(1)(b), Wis. Stats., the DPM Administrator may institute temporary pay administration policies as required to facilitate the handling of such declared emergencies.

Sec. 736.110 Referral of Questions

Questions regarding emergency release of employees should be directed to the Bureau of Classification and Compensation.

Sec. 736.120 Administrative Information

This chapter revision clarifies when to use the different absence treatments for ordered closures described in Sec. 736.060.

This handbook chapter was revised February 2016 to generally remove distinctions between represented and non-represented staff. Pursuant to the changes introduced by 2015 Wisconsin Act 55, in July 2015, the Office of State Employment Relations was eliminated, and the functions were transferred into the newly created Department of Administration, Division of Personnel Management. This chapter was updated to reflect the changes in terminology that resulted from the organizational restructuring.

In June 2018, minor updates were made to ensure that the information is current and to update the formatting of the chapter to align with the Wisconsin Human Resources Handbook standards. In May 2017, the Bureau of Compensation and Labor Relations was modified to be the Bureau of Compensation and Employment Relations. Updates were made to reflect this name change.

Chapter 736 was updated in August 2018 to reflect organizational changes that occurred to the Division of Personnel Management in conjunction with the implementation of Shared Services. The Bureau of Compensation and Employment Relations was divided into two separate bureaus: The Bureau of Classification and Compensation and the Bureau of Employee Management.

This handbook chapter was revised in January 2020 to add a section specifically addressing inclement weather situations which may affect employees' ability to arrive at or remain at work that do not require a state office or building closure. Additionally, procedural information regarding building closures was updated to reflect gubernatorial delegation to appointing authorities.