

Furlough Overview

Court Rejects Governors Appeal of TRO – August 12, 2010

A San Francisco appellate court judge ruled today, Thursday August 12th that the temporary restraining order by Judge Brick that temporarily stopped the furloughs stands. This means that state workers will NOT be furloughed until the case is heard on September 13, 2010.

The Governor, through DPA, has stated they will appeal to the California Supreme Court. However, for now DPA and CDCR have instructed employees that the furlough program, per the court order, is suspended. Friday, August 13th is a work day.

Furlough Overview: - Go to www.csonet.org and click on the News page and Furlough Order to view the actual Court Order.

On August 9th, in the County of Alameda, Superior Court Judge Steven A Brick ordered that Governor Schwarzenegger temporarily stop the furloughs that were to begin Friday, August 13th. The temporary restraining order (TRO) cites that the Governor, DPA, and State Controller and their agents are “Enjoined and Restrained from implementing and/or enforcing the provisions of Executive Order S-12-10 insofar as they require the furlough of state workers in bargaining units and classifications represented by Petitioners/Plaintiffs...”

That means furloughs stop for the unions’ members that filed as petitioners/plaintiffs which were: CCSO, ACSS, SEIU, CASE, PECG, CSLEA, and IUOE.

A memo from CCPOA was put out to their members stating that unit 6 was not a part of this order. This is correct for CCPOA unit 6 because they did not file with the unions to stop this via the TRO. However, CCSO unit 6 members are part of this order and it does apply to all CCSO members.

The State will determine who they want to furlough, but the Order only orders them to exclude the above listed unions’ members. DPA may expand to all state workers to avoid lawsuits.

The Governor immediately filed a writ to “stay” the TRO. That means the state filed to continue with the furloughs as planned.

Since a decision had not been released on the Governor’s appeal of the TRO, by mid morning of August 12th, **CDCR put out a memorandum by Brett Morgan, Chief of Staff that suspended the furlough program and made Friday, August 13, 2010 a regular workday.”**

The San Francisco Judge rejects the Governor’s appeal. The TRO is upheld, and the furlough is suspended until the court can hear the case on September 13th. State workers are informed that the Furlough program is suspended. DPA sent an email saying that the Governor will appeal the TRO decision to the California Supreme Court.

DPA, also sent out the following email, on Thursday August 12th to agencies and departments regarding the furlough program. Citing in part...

“As of today, the Court of Appeal has not yet ruled on the emergency petition and the TRO remains in place. The timing of any decision by the Court of Appeal effectively prevents the State from being able to appeal and obtain a decision from the California Supreme Court before Friday. Therefore, this Friday, August 13th will be a workday and State operations will be open this Friday. In order to maintain consistency and to provide for simplified administration, this will apply to all bargaining units.

If the Court of Appeal decides that the furloughs can continue as planned, the first furlough day this month will be treated as a self-directed furlough day to be used in the August pay period. If the Court of Appeal decides that furloughs cannot continue, we will seek review in the California Supreme Court.

We hope to have a decision from the Court of Appeal or California Supreme Court before the second scheduled furlough Friday (August 20, 2010). We will continue to keep departments informed of any decisions that impact furloughs.

We do understand that there are many instances where employees have made arrangements to furlough on this Friday. For this reason, if at all possible, departments are strongly encouraged to approve employee vacation requests for this Friday. If the court decides that furloughs can continue, employees may then change the vacation time they used this Friday to furlough time off.”