

Budgetary Control Memo #4 State Employee Pay Rates and Mandatory Cost Savings Days

The following actions are being taken with respect to exempt employee pay¹ for Fiscal Year 2021:

- A pay freeze for any employee exempt from collective bargaining. No exempt employee will be eligible for a pay increase, including the previously scheduled July 1, 2020 wage increase.
- A freeze on step advancement for any exempt employee eligible for step increases.
- A mandatory cost savings day (CSD) program will be implemented for all exempt employees for Fiscal Year 21 (July 1, 2020 through June 30, 2021). Exempt employees will be required to take ten (10) cost savings days during the year (equating to 80 hours) resulting in a pay reduction of approximately 3.8% over the course of the year. The reduction in pay is accomplished by reducing an employee's hours by 3.076 hours per pay period over the course of the fiscal year. Employees are required to take 10 CSDs off work during the fiscal year.
- The mandatory hiring controls continue to be in effect and will continually be evaluated over the course of the next fiscal year.
- These changes do **NOT** apply to any bargaining unit employee or any employee under the authority of the Office of the Secretary of State, Auditor of State, Treasurer of State, Attorney General, General Assembly, or Supreme Court, except as determined by those offices.
- This FAQ only addresses cost savings measures for Fiscal Year 2021. The budget for the 2022/2023 Biennium continues to be evaluated.

Frequently Asked Questions

Wage and Step Freeze

1. **Will exempt employees on the E-1 pay scale receive the 3% increase for the pay period including July 1, 2020?**

Answer: No. There will be a freeze on wages and no exempt employee will receive the previously scheduled 3% general wage increase for July 1, 2020.

2. **Can employees paid under the E-2 scale or administrative staff (E-3) receive discretionary increases?**

Answer: No. The freeze also applies to any discretionary increase for employees paid pursuant to

¹ Exempt employee refers to an employee exempt from collective bargaining under ORC 4117.

schedule E-2 under ORC 124.152 or employees designated as administrative staff.

3. When does the step freeze begin?

Answer: The freeze on step movement will begin for any employee whose step date is June 21, 2020 or after, through the pay period ending June 19, 2021.

4. Who does the freeze on step advancement apply to?

Answer: The freeze on step advancement applies to any exempt employee eligible to receive steps.

5. Are both probationary and annual steps frozen?

Answer: Yes. Any step that is due from June 21, 2020 through the pay period ending June 19, 2021 will be frozen and employees will not advance.

6. Will newly hired employees get their probationary step increase during the freeze?

Answer: No. Any employee due any type of step from the pay period that includes June 21, 2020 to the pay period that ends June 19, 2020 is frozen.

7. When will an eligible employee receive their next step increase?

Answer: No. At this time, step movement is scheduled to resume with the pay period beginning June 20, 2021. Employees will retain their step dates. (E.g., An employee with a step date of July 7, 2020, will not get a step in July of 2020. In July of 2021, the employee will resume step movement.) The budgets for FYs 22 and 23 are still being evaluated to determine if cost savings measures will continue to be necessary.

8. When steps resume, will employees receive an additional step to make up for the missed step?

Answer: No, when step movement resumes, employees will begin receiving steps again, but additional steps will not be given at that time.

9. Will eligible employees still receive longevity during the wage freeze?

Answer: Yes. Longevity is not currently impacted and will continue to be administered as it is currently being administered.

10. Is service time during the wage freeze counted for purposes of longevity?

Answer: Yes.

Hiring Freeze

1. Are exempt employees eligible for promotions during this time?

Answer: All promotional opportunities are subject to the hiring controls. A promotional opportunity may be available in a position that is exempt from the hiring controls. However, the position will be paid at the rate that applies to the classification effective June 7, 2020.

Cost Savings Days (CSDs)

Background Information on Cost Savings Days

1. What is the mandatory cost savings day (CSD) program?

Answer: The mandatory CSD program consists of 10 mandatory days off without pay over the course of Fiscal Year 2021 equating to eighty (80) hours without pay over the course of the year. The reduction in pay is accomplished by reducing an employee's hours by an amount equal to 3.076 hours each pay period of the fiscal year.

2. What if an employee doesn't want to take a total of 10 days off per year?

Answer: Each employee that is part of the mandatory cost savings day program is required to take the full amount of CSDs off each year. Agencies will need to work with employees to ensure it is operationally feasible for each employee to take off the full 10 days.

3. What if an employee for some reason is not able to take the full amount of days off work during the fiscal year?

Answer: Agencies need to work with employees to ensure they can take the full amount of CSDs during the fiscal year. However, in the rare event an employee (who is in pay range 13 or below or who is overtime eligible) has been **prevented** from taking all 10 of their CSDs, a reconciliation will be conducted by the agency and the employee's pay will be credited for the days not taken at the end of the fiscal year.

4. Can the federal government exempt certain employees from CSDs if those employees are 100% federally funded?

Answer: No. The Federal Government is not the employer.

Application of the Mandatory Cost Savings Day Program

5. Who does the mandatory CSD program apply to?

Answer: The mandatory CSD program applies to all full-time permanent employees exempt from collective bargaining. For part-time permanent exempt employees, the CSDs will be assessed on the holidays listed in ORC 124.19.

6. Does a part-time permanent exempt employee have to take CSDs?

Answer: No, part-time permanent employees exempt from collective bargaining will not have 10 CSDs to use during the fiscal year. Instead the cost savings will be assessed on each holiday. Part-time permanent exempt employees will not receive holiday pay in FY 21.

7. Are intermittents, external interims, and interns required to take CSDs?

Answer: Non-permanent exempt employees (intermittents, external interims, interns, etc.) who are exempt from collective bargaining will not have the deduction of 3.076 hours and will not be

required to take 10 CSDs.

8. Are Administrative Staff part of the mandatory cost savings program?

Answer: Yes, administrative staff employees are included.

9. Does the mandatory cost savings program apply to agencies that have non GRF funding?

Answer: Yes, any exempt employee, regardless of funding source, is included in the mandatory cost savings program.

10. Do Agency Directors get 10 CSDs?

Answer: No, Agency Directors will not receive 10 CSDs. Agency Directors will have their pay reduced by 4% for Fiscal Year 2021.

11. Do Executive Directors of boards and commissions get 10 CSDs or will they have their CSDs assessed on the holidays?

Answer: As long as the Executive Director accrues leave, the Executive Director will be required to take 10 CSDs.

12. Do Board and Commission members (either fixed term or salaried) get 10 CSDs?

Answer: No. Appointed Board and Commission members will not receive 10 CSDs. Generally, Board and Commission member salaries are either set by statute or cannot be changed during their appointment. If a Board or Commission member wants to participate in cost savings measures, contact DAS for additional information.

13. Do employees on disability leave get 3.076 hours deducted from the 67% pay while on disability?

Answer: Yes.

14. What if an employee wants to write a personal check to the state in lieu of taking any CSDs? Will that be permitted?

Answer: No.

15. If an employee is off work due to Workers' Compensation, will the 3.076 reduction in hours be taken if the employee is receiving temporary total compensation?

Answer: No. Employees receiving temporary total compensation are not being paid by the State of Ohio, so cost savings deductions will **NOT** be taken from those payments. Upon the employee's return to work, the employee must then take a prorated amount of CSDs for that fiscal year.

16. If an employee is not receiving a paycheck (e.g. on an unpaid leave of absence, unpaid FMLA, unpaid military leave, etc.) will they still be required to take CSDs?

Answer: No. The 3.076 hours per pay reduction will not be taken for employees who are not receiving a paycheck. If an employee begins receiving a paycheck during FY 21, then the number of CSDs available upon the employee's return to work will be prorated based on the amount of time remaining in the fiscal year.

If, at the time of the leave without pay, the employee has used fewer CSDs than the employee has paid for, then the number of CSDs available upon the employee's return to work will be prorated. For example, employee uses 1 CSD in August and takes an unpaid leave of absence in January. At this point, the employee has paid for 5 CSDs and has used only 1. The first 4 days of the employee's leave without pay shall be taken as CSDs. When the employee returns later that fiscal year, the employee will receive a prorated number of CSDs based on the amount of time remaining in the fiscal year. If the employee has used more CSDs than the employee has paid for and the fiscal year will end while they are out, the employee shall be required to reimburse the agency for the unfunded CSDs prior to the fiscal year ending.

Timing of the Mandatory Cost Savings Day Program

17. When does the mandatory CSD program start?

Answer: The program starts in FY 21 and begins with the pay period that includes July 1, 2020. This pay period starts on June 21, 2020. Although the fiscal year does not start until July 1, 2020 the pay period that includes the start of the fiscal year is the start date in order to account for a standard full 26 pays in a fiscal year.

18. What pay period ending date will the first 3.076-hour deduction begin?

Answer: The pay period that ends on July 4, 2020. The first deduction will appear on the paycheck employees receive on July 17, 2020.

19. When does the mandatory CSD program end?

Answer: At this time, the mandatory CSD program is planned only for FY 21, which ends with the pay period ending June 19, 2021. The last deduction will be reflected on the paycheck employees receive on July 2, 2021. The Department of Administrative Services and the Office of Budget and Management will continue to evaluate the need for any additional cost savings measures for FYs 22 and 23.

Implementation/Programing

20. How will the amount equal to 3.076 hours be reduced on the employee's bi-weekly paycheck?

Answer: The reduction of an amount equal to 3.076 hours will be programed across the board by the DAS Human Resources Division. Agency payroll officers will not be required to compute this manually. The OAKS HCM system will automatically insert a new payroll deduction code (CSDFND) for all eligible employees. A deduction amount will be calculated at 3.076 hours times the employee's hourly rate of pay.

21. How will the balance of CSDs be reflected?

Answer: The leave usage code (Time Reporting Code (TRC) – CSDLV) will be used and will have a maximum leave balance of 80 hours. When CSDLV is reported the leave balance will be reduced by the number of hours used and will be charged to the agency like other leaves used (e.g., Vacation). The CSDs will appear with the employee's other leave accruals as an 80-hour bank of time.

22. Is there a specific time reporting code (TRC) that employees will use when they take a CSD?

Answer: Yes. The time reporting code is CSDLV.

23. Is there an earnings code for cost savings days?

Answer: Yes, the earnings code is CSL (Cost Savings Day Leave) and will appear on the employee's paycheck.

24. Will the CSD reduction come out before or after taxes? Will the 3.076 hours be reflected on W2s? Will we need to save all pay stubs to claim this as lost wages?

Answer: The CSD reduction will be assessed before taxes. The W2 will reflect the wages actually paid during the year. Employees will not need to track the lost wages.

25. What happens if an employee moves into or out of a position that is included in the mandatory cost savings day program after the start of the fiscal year?

Answer: When an employee is hired into an exempt full-time position, they shall receive a pro-rated amount of CSDs. The amount will be equal to the number of payroll periods remaining in the fiscal year times 3.076 hours. When an employee separates from an exempt full-time position or moves into a position that is not participating in the mandatory cost savings program, they shall receive payment for the amount of money that has been deducted less the cost of the time used. Should the employee have used more time than they have had deducted, then they employees shall have that money deducted from his/her payroll check.

26. For part time employees who have their CSDs assessed on a holiday, will this be automatically programmed, or will agency payroll officers need to compute this manually?

Answer: The assessment for part time employees will be programmed and agency payroll will not need to compute the time manually however, there will be manual intervention necessary to ensure that the part-time employee's pay status is not impacted for purposes of leave accruals, benefits, etc. Please contact your DAS State Payroll contact for additional information on how to make this adjustment.

27. How will the reduction of an amount equal to 3.076 hours per pay period affect overtime?

Answer: The amount equal to 3.076 hours will be deducted off the total hours paid for overtime eligible employees. The deduction does not impact the number of hours worked. Overtime eligible employees will still receive overtime if they are in active pay status for more than 40 hours in a week. CSDs used are excluded from active pay status for the purpose of overtime for overtime eligible employees.

Exempt employees that are not eligible to earn overtime will have any CSD time used during a week counted as active pay status for purposes of determining if the employee is eligible to earn compensatory time.

28. If an employee uses a CSD during the week, but then works 8 hours on Saturday, how are the 8 hours paid?

Answer: CSDs are not "active pay status" for purposes of overtime for overtime eligible employees. If an overtime eligible employee works 32 hours of their normal schedule, takes 8 hours of CSD time, and then works 8 hours on Saturday, the 8 hours on Saturday will be paid at straight time. For exempt employees that are not eligible to earn overtime, CSDs are counted as

“active pay status” for the purposes of earning compensatory time.

29. Will leave accruals (e.g. vacation or sick leave) continue at the same rate or be affected by the CSDs?

Answer: CSDs will not impact leave accruals or eligibility for benefits.

30. If an employee leaves State service before the end of the fiscal year but has used more CSDS than have been deducted, how is that reconciled?

Answer: If the employee has taken CSDs that exceed the value of the withheld hours, the employee’s final paycheck will be adjusted to balance out the hours withheld and the CSDs taken. The same reconciliation will take place if an insufficient number of CSDs have been taken and the employee falls within a specified pay range.

31. If an employee is receiving a supplement for a Temporary Working Level (TWL) will the deduction be taken from the employee’s TWL rate of pay or rate of pay without the TWL supplement?

Answer: The 3.076 reduction is taken from the hourly rate without the TWL supplement. In a TWL, the additional rate of pay is paid as an “additional pay,” so it would not be reduced. In other words, the deduction for the CSD will be based on the employee’s regular rate of pay and not their TWL rate.

32. If an employee moves from a position that is required to take 10 CSDs to a position that has their CSDs assessed on the holiday (e.g. part-time employees), what happens?

Answer: As soon as possible prior to the date of the transfer, the agency should contact their Labor Relations and Human Resources Policy Analyst. The determination of what happens is dependent upon the specific facts of the situation.

33. If an employee moves from a position that has their CSDs assessed on a holiday to a position that is required to take 10 CSDs, what happens?

Answer: If the employee was having CSDs assessed on the holiday and was not receiving a 3.076 deduction then the employee’s CSDs will be prorated for the remainder of the fiscal year.

Using a CSD

34. When can employees use their CSDs?

Answer: The 80-hour bank of CSDs will be available for use beginning on July 1, 2020. Employees will be able to use CSDs until June 5, 2021.

35. How are CSDs scheduled for use throughout the year?

Answer: Employees can schedule leave for CSDs in a manner determined by the agency. Agencies may set agency-specific criteria to determine whether to grant leave for CSDs for the dates the employee requests. If an appointing authority declines to grant a requested CSD, the employee

shall request a different date. Agencies **must** allow employees to schedule and take all of their CSDs by the end of the fiscal year.

36. Can an agency deny a requested CSD?

Answer: Yes. However, the employee who is refused or denied a requested cost savings day **must** be provided with the opportunity to reschedule the CSD. Employees **must** be able to use all ten CSDs throughout the year. Agencies are responsible for ensuring supervisors understand the need for employees to take CSDs.

37. Can an agency determine there are certain days where no CSDs can be scheduled (“black out days”)?

Answer: Yes, upon consultation with the Director of the Department of Administrative Services (DAS), agencies can set certain days, black out days, that no CSDs can be scheduled, and these days can be work unit specific. Black out days must be determined and communicated to employees no later than August 1, 2020.

38. If an agency denies or revokes a scheduled CSD, can employee reschedule on a “blackout” day?

Answer: If the agency denies a CSD, the employee may request another day at their discretion, but this does not include black out days.

39. Can an employee use a CSD before they actually “earn it”? In other words, if an employee has only had the equivalent of 3.076 hours taken from their pay, can they still take a full 8-hour CSD?

Answer: Yes. However, for the purposes of using CSDs to cover any waiting period that is required as a part of a state-paid leave or benefits program for employees, a CSD is only “available” for use during a waiting period if the employee’s gross pay has been reduced by an amount sufficient to cover.

40. Can CSDs be broken down in increments of less than eight hours (or increments of less than a normally scheduled shift)?

Answer: Generally, yes. CSDs are to be taken as determined appropriate by the agency with respect to the employee’s regular work schedule. CSDs may be taken in less than full day increments.

41. Do CSDs need to be used before any other leave during the fiscal year?

Answer: Exempt employees may use their CSDs prior to using any other leave balances (personal, vacation, comp time, etc.) but are not required to. Employees are expected to manage their vacation balance and work with their supervisor to use vacation leave when they are near or at their max. Employees are still required to use all their CSDS during the year and managers must work with employees to allow them to take their CSDs.

CSDs and Other Types of Leave

42. If an employee calls off sick (or calls off unexpectedly for a non-sick reason), will the employee be able to opt to use a CSD rather than using sick leave?

Answer: Agencies may allow an exempt employee to use a CSD rather than taking sick, personal

or emergency vacation leave. Such approval is subject to agency discretion. Employees will not be required to use a CSD since sick leave call-offs and unexpected call-offs are typically not pre-scheduled.

43. If an employee has a pre-scheduled CSD, then gets sick and is out during the pre-scheduled CSD, how is this treated?

Answer: The leave will be treated as a CSD.

44. Can an employee who is participating in a transitional or partial return to work program take CSDs?

Answer: At the agency's discretion, employees who are participating in a transitional or partial return to work program may take CSDs while participating in the program. For exempt employees the CSDs shall be taken as determined appropriate with respect to the employee's current schedule and may be taken in less than full day increments. Employees who are prevented from taking their CSDs upon their return to work, and are within the designated pay ranges, will be equalized at the end of the year for the days they were prevented from taken.

45. Can additional CSDs be taken in lieu of leave without pay status for disciplinary purposes?

Answer: No.

46. Can employees use CSDs for the adoption/childbirth leave waiting period?

Answer: Yes. Employees may use available CSDs to cover the adoption childbirth leave waiting period. A CSD is only "available" for use during the adoption childbirth leave waiting period if the employee's gross pay has been reduced by an amount sufficient to cover the use of the cost savings day. For example, if an employee has been reduced 3.076 hours for 4 pay periods, the employee will be able to use 12.304 CSD hours during the adoption childbirth leave waiting period.

47. Can employees use CSDs during the disability waiting period?

Answer: Yes. Employees may use available CSDs to cover the disability leave waiting period. A CSD is only "available" for use during the disability leave waiting period if the employee's gross pay has been reduced by an amount sufficient to cover the use of the cost savings day. For example, if an employee has been reduced 3.076 hours for 4 pay periods, the employee will be able to use 12.304 CSD hours during the disability leave waiting period.

48. Can an employee use CSDs to supplement to 100% of their pay while receiving disability pay?

Answer: No. CSDs cannot be used to supplement disability.

49. If an employee uses CSDs to cover during a waiting period for a state paid benefit (e.g. disability), can the time be counted towards FMLA?

Answer: Yes, the time should also be counted towards FMLA.

50. Can the agency require CSDs to run concurrently with traditional unpaid FMLA?

Answer: Yes. Agencies should run CSDs concurrently with traditional unpaid FMLA consistent with the statewide FMLA policy. CSDs should be used before any other type of accrued paid leave

is run concurrently in this manner. Agencies should monitor the employee's leave balances and contact the Labor Relations and Human Resources Policy section if an employee is nearing a point in time where they will exhaust paid leave to be run concurrently.

51. Can the agency require CSDs to run concurrently with the paid portion (i.e. the 10 weeks that follow the 10-day unpaid portion) of the expanded FMLA under the Families First Coronavirus Response Act (FFCRA)?

Answer: Yes. Agencies should run CSDs concurrently with the paid portion of the expanded FMLA under the FFCRA consistent with the statewide policy and statewide guidance concerning FFCRA. Employees are already required to use appropriate paid leave concurrently with the paid portion of the expanded FMLA until the appropriate paid leave is exhausted. CSDs should be used before any other type of accrued paid leave is substituted in this manner.

52. Can the agency require employees to use their CSDs to cover the unpaid portion (i.e. the first 10 days/first two weeks) of their expanded FMLA leave?

Answer: Yes, but only if the employee is NOT using their Emergency Paid Sick Leave during this first two-week period. The agency cannot require an employee to use their CSDs or any accrued leave when the employee is using Emergency Paid Sick Leave.

53. Can CSDs be used to supplement Emergency Paid Sick Leave or the paid portion of the expanded FMLA?

Answer: No, CSDs cannot be used to supplement Emergency Paid Sick Leave or the paid portion of the expanded FMLA. Under FFCRA, when an employee is using expanded FMLA and has exhausted paid leave, they will be paid at 2/3 their rate of pay. An employee is not permitted to supplement to 100% of their pay during this time with any leave, including CSDs.

54. Do the hours the employee takes as CSDs count towards the employee's 1,250-hour FMLA eligibility requirement?

Answer: No. An employee must have actually worked at least 1,250 hours during the past twelve months. Active work status is defined as the conditions under which an employee is actually in a work status and is eligible to receive pay and would not include time taken pursuant to a CSD program.

55. If an employee is currently using some (or all) of their 176 hours of paid military leave, will they have the 3.076-hour reduction taken from the paid leave?

Answer: Yes.

56. If an employee has already used their full 176 hours of paid military leave and is on unpaid military leave, how will their CSDs be assessed?

Answer: During the 176 hours of paid military leave, the employee will have a little more than 6.152 hours reduced through the CSD reduction. Immediately following the exhaustion of the 176 hours of paid military leave, the employee will be required to use the 6.152+ hours of CSDs prior to going into an unpaid military leave status.

57. Can a person who is off on an unpaid military leave of absence use a CSD before and after a holiday to receive payment for the holiday?

Answer: No. An employee who is off on an unpaid military leave of absence will not have the 3.076 taken while off on unpaid military leave. As a result, the employee will likely not have accrued any CSDs available to use either before or after the holiday. Additionally, pursuant to the state's military leave policy, employees who are on unpaid military leave may not jump back and forth from a "pay" status to a "no pay" status.

58. The Leave Donation program requires employees to exhaust all of their paid leave before they are eligible for donated leave. Does this include CSDs?

Answer: Employees are not required to have exhausted their CSDs in order to be eligible for donated leave. The donated leave statute requires them to exhaust their "paid leave" only and later defines "paid leave" to only include sick leave, vacation leave, and personal leave.

59. Can CSDs be donated to the leave donation program?

Answer: CSDs are not an eligible type of leave for donation.

60. If an employee is in a no pay status for one or more pays, will the cost savings deduction be made up on subsequent pays?

Answer: No, but the CSDs to be taken should be prorated upon the employee's return to work.

61. If an employee has pre-scheduled their CSDs but subsequently is approved for disability, how will the CSDs be assessed?

Answer: The CSDs will need to be taken upon the employee's return from disability.

Retirement Contributions

62. How will the CSDs affect retirement contributions?

Answer: Since the employee's gross pay will be reduced by an amount equal to 80 hours a fiscal year as a result of the CSDs, their retirement contribution will be reduced accordingly.

63. Will employees who are planning to retire, but are also planning a vacation before they retire, be required to take vacation as CSDs and then repay back the extra time they took?

Answer: The number of CSDs the employee is required to take will be prorated for the amount of time the employee will be with the state prior to retirement. The vacation days the employee takes will be counted as CSDs. The employee should not be required to pay anything back.

64. How will CSDs be assessed for employees retiring effective July 1, 2020?

Answer: These employees will have one pay period with the deduction but will not have time to take the CSD so the employee's pay may be equalized upon their retirement for the 3.076 hours depending on the employee's pay range.

65. If employee has formally indicated they are planning on retiring at some point during FY21, should the employee take a pro-rated amount of CSDs?

Answer: Yes. The proration is the equivalent of 3.076 hours for every pay period they are scheduled to work in FY21.

Miscellaneous

66. Am I eligible for unemployment benefits due to the ten CSDs?

Answer: No. Under ORC 4141.31, any unemployment benefit amount would be reduced by the determinable value of cost savings days.

67. Are employees eligible to be paid for vacation requests that are denied?

Answer: Agencies should work with employees who are at or close to their vacation maximum to schedule time off that allows the employee to use their vacation accruals and their CSDs.