**Section 2920.40 Payments In Lieu Of Notice Of Separation Or Layoff**

a) Wages

1) Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff, except for payments related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65] or the federal Worker Adjustment and Retraining Notification Act (29 USC 2101 et seq.), shall be treated as wages with respect to the period of notice, provided that the following conditions are met:

A) There must be an employment agreement or a uniformly applied company policy that requires that the employing unit give the employee a definite period of notice before a layoff or separation;

B) The employee must be laid off or separated without the required notice; and

C) The employing unit must pay the employee a sum equal to his regular wages, or an amount computed in accordance with a formula based on the employee's past earnings, for the required period of the notice.

2) If the amounts treated as wages in lieu of notice with respect to a week pursuant to this subsection (a) exceed the individual's weekly benefit amount, the individual shall be ineligible to receive benefits with respect to that week.

b) Service Payments. Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff that do not satisfy the conditions set forth in subsection (a) shall be treated as severance pay described in Section 2920.45 except for payments that qualify as vacation pay in connection with a layoff or separation, as provided in Section 2920.30 and are not related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act or the federal Worker Adjustment and Retraining Notification Act.

(Source: Amended at 29 Ill. Reg. 1935, effective January 24, 2005)