**Section 250.119 Furloughs**

a) Furlough. A furlough is the placement of an employee in a temporary nonduty, nonpay status for a continuous or noncontinuous period of time due only to a lack of funds. A furlough is not considered a layoff or a reduction in force action and, therefore, is not subject to Section 250.110(d) regarding a layoff. Any furlough program is intended to mitigate the need for significant and permanent layoffs for the prospective 9 to 12 months after the furlough program has ended.

b) Provisions. In order to invoke a furlough program, the employer must demonstrate significant fiscal distress, as verified by the employer's controlling board or commission during a meeting conducted in accordance with the Open Meetings Act. Significant fiscal distress includes:

1) A failure to receive an annual appropriation by the General Assembly;

2) Severe and significant reductions to an annual appropriation by the General Assembly; and

3) Similar budgetary reductions that could come in the form of "fund sweeps" or "fund reserves" imposed by the General Assembly or Governor, or by similar legislative actions.

c) Furlough Program Stipulations. A furlough program shall not be used by an employer for the following reasons:

1) Permanent shutdown;

2) As a substitute for permanent part-time employment; or

3) As a disciplinary measure.

d) Criteria. Uniform participation and selection criteria shall be developed by the designated place of employment and consistently applied. This Section shall only apply to employees who are designated within the employer's furlough program in accordance with subsections (d) through (p).

e) Temporary and Extra Help Appointments. Prior to the implementation of a furlough program, all employees on a temporary appointment or an extra help appointment shall be terminated, unless an exception is permitted subject to subsection (h).

f) Student Appointments. Student appointments subject to Section 250.70(e) shall be placed in a furlough status for an amount of time that is generally equal to that of employees who are being furloughed, unless an exception is permitted subject to subsection (h). Student employees shall not be used to replace status employees who are being furloughed.

g) Voluntary or Mandatory Furlough Program. A furlough can be either voluntary or mandatory. A voluntary or mandatory furlough program is not required to include all employees at a designated employer or within a division or program.

h) Exceptions. Employers may exempt positions from a furlough program under the following conditions:

1) Positions/employees who have mandated funding, such as a grant or other funding source, or whose absence would jeopardize the funding for a position/employee or department;

2) Employees in positions considered essential to the critical mission of an employer, such as those related to health and welfare or public safety;

3) Employees in positions considered essential to maintain facilities during a furlough program; or

4) Students whose positions are part of their financial aid package or whose position results in the awarding of academic credit.

i) Notification of Furlough Program to Employees. No furlough program may be implemented unless the employer has notified all employees affected by the furlough at least 30 days prior to a furlough program being implemented. The process by which the employer chooses to notify employees is at the employer's discretion, but must conform to the employer's policies related to contacting an employee for official business. The notice must inform the employee of the date or dates on which the employee is to be on furlough status and the end date of the furlough program.

j) Furlough Work Status. An employee who is furloughed shall not be at work, on standby or on-call, and shall not perform any work for the furloughing employer during his/her scheduled furlough time. However, for emergency situations, employees subject to a collective bargaining agreement may be called back to work in accordance with the agreement. For those employees not subject to a collective bargaining agreement, employees may be called back to work in accordance with standard employer policies.

k) Employee Benefits

1) Employees who are furloughed are not permitted to use vacation, sick leave, personal leave, "floating" holidays, or any other compensable time or similar benefit for the time during which he/she is being furloughed.

2) Notwithstanding any other Section in this Part, or the fact that an employee's work hours or pay is reduced by the requirement to take a furlough, furlough time will be credited as if the employee were in pay status for employee benefit programs such as health, life, dental and vision insurance and any similar benefits.

3) A furloughed employee shall be entitled to the same benefits to which he/she was entitled on the paid workday immediately preceding the furlough day. These benefits include, but are not limited to, continued accumulation of vacation and sick leave, holiday benefits, and benefits established by the Merit Board Policy Relating to Employee Benefits as approved by the Merit Board, and other benefits approved by the Governing Boards of the universities and agencies served by the University System.

4) A furloughed employee shall continue to accrue seniority during any and all furlough work days.

l) Maximum Number of Furlough Work Days. A furlough program shall only be instituted for a maximum of 15 work days in any fiscal year (July 1 through June 30).

m) Employer's Tracking of Furlough Days. The employer is required to track designated furlough days for each employee.

n) Military Leave during a Furlough Program. An employee on military leave shall not be scheduled for any furlough days during his/her leave and may be scheduled for furlough days that may be prorated dependent upon the date the employee returns to work, if a furlough program remains in effect.

o) Collective Bargaining Agreements. Implementation of furloughs for employees covered under a collective bargaining agreement is subject to applicable State and federal labor laws and regulations. This Section does not absolve, circumvent or supersede other State or federal labor laws and/or regulations that apply; including any duty to bargain in accordance with those laws and regulations.

p) Notification to the State Universities Civil Service System of a Furlough Program. An employer may institute a voluntary or mandatory furlough program upon notification to the Executive Director at least 30 calendar days prior to any employee being furloughed. Notifications shall include the following:

1) What considerations have been contemplated or invoked for other employees, such as those listed in Section 36e(2) through (5) of the Act;

2) An explanation of the facts related to the temporary nature of the event causing the furlough program;

3) The funding deficit related to the affected work areas;

4) The approximate number of employees affected by the furlough program; and

5) The beginning and ending dates of the furlough program for the employer.

q) Reporting Requirements for a Furlough Program. An employer shall provide specific reports to the University System office within 10 calendar days following the implementation of a furlough program. These reports shall contain the following:

1) Summary of positions affected by the furlough program:

A) Headcount of total employees impacted and their classifications;

B) Number of furlough days being implemented;

C) Approximate amount of savings for the furloughed positions/employees; and

D) Impact of furloughs invoked for other employees, such as those listed in Section 36e(2) through (5) of the Act.

2) Other related documentation as requested by the University System office.

(Source: Amended at 42 Ill. Reg. 24268, effective December 3, 2018)