DATE: May 25, 2016

TO: James R. Johnsen, President

FROM: Michael Hostina, General Counsel

RE: Emergency Regulation Revision – Furlough During State Budget Impasse

Attached for your review and approval are proposed revisions to regulations governing furloughs during state budget impasse. The changes are shown in redline and in a final version.

For the following reasons we recommend the revisions be adopted as emergency regulations. As you know, FY17 begins July 1 and the legislature ended its regular session without passing any budget. Although we are hopeful that this will be remedied during the current special session, if a budget is not passed and signed by the governor by July 1, the university will be left without authority to expend receipts and will receive no General Fund money. The proposed revisions would make furlough a potential measured response to a budget impasse by allowing more time for resolution before notice must be given, and by providing for temporary leave without pay rather than termination through layoff.

To avoid confusion that could result from multiple revisions, this proposed emergency revision incorporates three changes that were part of a pending, non-emergency process to revise the regulation. These are indicated in comments. It also incorporates one change to conform regulation to practice, providing that the regional human resources offices will provide notices to employees.

In accordance with Regents Policy 01.03.020 A., in the event that you agree that there is an urgent need for such changes to regulation, you may adopt the regulations as emergency regulations without the need for advance review and comment by the chancellors or governance groups, provided that you then bring the emergency regulation to the attention of the Board of Regents at its next regularly scheduled meeting.

I recommend your approval. If you concur, please indicate by signing below. The changes would be effective upon your signature and incorporation in the Manual of Regulations. Thus your approval should be transmitted to Brandi Berg, Board of Regents Executive Officer, for incorporation in the manual and distribution.

Attachment
President Johnsen  
RE: Emergency Regulation Revision – Furlough During State Budget Impasse  
May 25, 2016  
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In accordance with Regents Policy 01.03.020.A, I approve and cause to be promulgated the attached as emergency regulations. These revisions are effective immediately. I further direct that the Board be notified of this action in advance of its next regularly scheduled meeting.

James R. Johnson, President  
5.26.16  

cc: Brandi Berg, Board of Regents Executive Officer  
Chancellors  
General Counsel
Emergency Revisions to University Regulation 04.07.115
Employee Furlough During State Budget Impasse
May 26, 2016

R04.07.115 Employee Furlough

To address budgetary shortfalls in any unit of the university, employees may be subject to furlough via temporary unpaid leaves of absence or via prospective, temporary reductions in pay and equivalent work hours. Prior to implementation of a furlough plan, other reductions and cost savings, as well as revenue generation, will be considered and implemented as appropriate.

A. Definitions:

1. Furlough: Temporary unpaid leave for a designated period of time, or a prospective, temporary reduction in pay, imposed to meet a budgetary shortfall.

2. Budgetary shortfall: A status of financial health in which projected or actual expenditures are anticipated to exceed revenue.

2.1. State budget impasse: A temporary budgetary shortfall resulting when an appropriation for the University is not passed by the legislature and approved by the governor by May 15, and continuing until a budget is passed.

Except in the case of a state budget impasse, employees may request a reduced contract in lieu of furlough. Requests are subject to approval by the employees’ dean/director and the regional human resources office.

B. A furlough plan may include, but not be limited to, any of the following at the discretion of the university:

1. A specified number of days each pay period, month or year may be designated as furlough days, with no business being conducted on those days.

2. Salaries of exempt employees may be reduced by a specified percentage.

3. Non-exempt employees may have reduced-hour work weeks (for example, work week reduced from 40 hours to 37.5 hours) or reduced contracts (for example, work schedule reduced to less than 10 days per pay period and/or less than 12 months per year).

4. A different number or percentage of furlough days for employees in different pay grades or classifications.

4.5. During a state budget impasse, temporary indeterminate unpaid leaves of absence which must be re-evaluated after 30 days.

Reduction of pay will include reduction of expected effort.
C. All university employees (full or part-time, regular, term or temporary) may be subject to furlough, except as provided:

1. Employees who hold H-1B visas, as defined in 20 CFR 655.731;

2. Graduate/teaching/research assistants, postdoctoral fellows/trainees who do not pay FICA, and other student employees; however, in the case of a state budget impasse such employees may be subject to furlough;

3. Employees on military leave with pay;

4. Employees who perform functions essential to maintain health and safety, as determined by the chancellor or president; and

5. Employees whose compensation is derived 100% from restricted funds; however, in the case of a state budget impasse such employees may be subject to furlough.

D. Employee benefits during a furlough will be affected as follows:

1. Accrual of annual and sick leave will be reduced by a furlough.

2. Holiday pay for benefit-eligible employees will not be reduced for a holiday immediately before or after a furlough day.

3. Health care and life insurance benefits will not be reduced by a furlough. However, health and life insurance may be suspended in the case of an unpaid leave of absence of 30 days or more resulting from a state budget impasse.

4. Pay deductions authorized by an employee during a furlough will not be reduced during a furlough, though voluntary deductions may be altered. The employee remains responsible for making all employee contributions during a furlough period, including health coverage. In the case of a state budget impasse resulting in an unpaid leave of absence, the University may but is not required to withhold unpaid deductions or contributions from pay when the furlough ends.

5. Retirement contributions by both the employee and the University will be reduced by a furlough. Service credit may also be reduced.

E. A furlough plan for unit(s) affected by a budgetary shortfall will be implemented upon recommendation of the chancellor and the vice president for finance and administration, and approval of the president. During a state budget impasse, the president may implement a furlough plan in consultation with the chancellors. The president shall consult with governance prior to approval. Governance may request financial records for any unit affected by furlough.

1. The Statewide Office of Human Resources will distribute notice of the president’s approval of a furlough plan to the regional human resources office and staff governance. The regional human resources office will provide notice to affected employees at least sixty (60) days prior to implementation. The furlough plan

Comment [MPP1]: Previously circulated as a regular revision.

Comment [MPP2]: Change requested by staff governance in response to previous revision.

Comment [MPP3]: Conforms regulation to practice.
will specify the amount or percentage of furlough time and the applicable time period. Advance notice will be reduced to 30 days in the event of a state budget impasse.

2. After a furlough plan has been implemented, the president may establish a review committee established by the president shall to examine ongoing need and efficacy on a quarterly basis.

3. The president may reduce or cancel a furlough plan at any time.

F. Upon notice of a furlough plan, supervisors may schedule furlough days, in consultation with the employee, subject to the operational needs of the department. Furlough schedules shall be approved by the department dean/director and the regional human resources office. In the case of a state budget impasse processes will be adjusted as appropriate and consultation will not be required.

G. Furlough days shall be taken on days that the employee would normally be scheduled to work. Employees may not be directed or permitted to work on furlough days or to work more than 40 hours in the work week in which a furlough day is taken. No employee may use paid leave to offset all or any portion of a furlough.

H. Furlough provisions for employees under collective bargaining agreements will be clarified through Memoranda of Agreement with each bargaining unit.

I. The Chief Human Resources Officer or designee will review any appeals from employees claiming extreme financial hardship under a furlough plan other than a plan during a state budget impasse.

J. The provisions of this section apply only to employee furlough and are not applicable to layoff or any other type of termination of university employment.
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