



State Universities Civil Service System

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## **Agenda for the Human Resource Directors Advisory Committee Meeting**

***Date: July 28, 2017***

***Time: 10:00 a.m.***

- 1. Welcome and Introductions**
- 2. Merit Board Policy Working Group Committee Update - Handout**
  - *The working group met on January 24, April 13, and July 6, 2017 to review and update proposed changes to Civil Service benefits afforded by the Merit Board.*
  - *A final policy draft has been completed and will be proposed to the Merit Board at their August 2017 meeting.*
- 3. Statutory Update**
  - *Act Revision. Update on Pending HB3185.*
- 4. Update regarding rulemaking to Section 250.119 of the Code (80 Ill. Adm. Code §250.110) – Handout**
  - *Update on the status of the proposed rulemaking revisions to the proposed changes to Section 250.119 of the Code. This is Furlough related.*
- 5. Update regarding rulemaking to Section 250.110 of the Code (80 Ill. Adm. Code §250.110) - Handout**
  - *Update on the status of the proposed rulemaking revisions to the proposed changes to Section 250.110 of the Code. This is Discharge and Layoff related.*
- 6. Principal Administrative Employees – Handout**
  - *Please provide any alternative to the current proposed rule.*
- 7. New Category of Status Employee – Grant Funded / Soft Money**
  - *How or can we collect data of how many employees are or could be in this category.*
  - *Review Seniority provisions for these employees*
- 8. Report of the Executive Director – Jeff Brownfield (Tentative - as time permits)**
  - a. Classification Plan Update
  - b. Class Consolidation
  - c. Governance, Risk, and Compliance Audit Update
  - d. Agency Budget / Staff Update
  - e. Legal Updates
- 9. Other Items as Presented**

# State Universities Civil Service System

## Policy Relating to Employee Benefits

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WHEREAS the Civil Service Act provides that "the Merit Board shall have the power and duty...

. . . To prescribe the range of compensation for each class or to fix a single rate of compensation for employees in a particular class; and to establish other conditions of employment which an employer and employee representatives have agreed upon as fair and equitable. . . .

[To] . . . take into account the rate of compensation generally paid for similar work in the locality in which the work is to be performed. . . .

. . . To recommend to the institutions and agencies . . . standards for hours of work, holidays, sick leave, overtime compensation and vacation for the purpose of improving conditions of employment . . . and . . . insuring conformity with the prevailing rate principle."

WHEREAS institutional representatives have expressed general concurrence with the principle benefits among institutions as required to adhere to applicable Local, State, or Federal law, collective bargaining agreements, or Board of Trustee resolution or policy;

THEREFORE, BE IT RESOLVED that it is the judgment of the Merit Board that each of the governing boards, institutions, and agencies specified in Section 36e of the Act should accord fringe benefits to its employees and develop administrative rules and procedures that comply with Federal and State law, as applicable.

### **I. HOURS OF WORK**

#### **A. Work Schedules**

The Merit Board may recommend to the institutions and agencies standards for hours of work.

#### **B. Overtime Compensation**

Consistent with Local, State, and Federal law requirements, employees designated as non-exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) shall be eligible for overtime pay, and will be compensated at time and one-half for all time in a work week in excess of the number of hours of work comprising an established full-time work schedule.

### **II. ELIGIBILITY FOR EMPLOYEE BENEFITS**

Except as otherwise indicated in this policy for prevailing wage rate groups, employee benefits will be made available to employees in status appointments. Included in this group will be those in appointments designed to qualify employees for status in the class, e.g., intern, apprentice, and, where appropriate, provisional. Employees in other types of non-status appointments, such as Temporary or Extra Help, will not be extended employee benefits, except as otherwise designated by Executive Order

or State/Federal Law. Eligibility for benefits in relation to work, leave, layoff, or absence status shall be determined by each institution or agency.

### **III. HOLIDAYS**

#### **A. Employees other than Prevailing Wage Rate Groups**

Eligible employees not in prevailing wage rate groups will be excused with full pay, except for necessary operations, on New Year's Day, Martin Luther King, Jr. Birthday, Memorial Day (as determined by the Law of the State of Illinois), Independence Day, Labor Day (first Monday in September), Thanksgiving Day, Christmas Day and on four other holidays designated by the governing board of the institution or agency. These holidays may differ between institutions and agencies but shall be of commemorative or other significance as non-work days (e.g., legal holidays in the State of Illinois. As designated by the governing institutions, a limited number of additional holidays may be designated as appropriate to observe other holidays of significance.

#### **B. Prevailing Wage Rate Groups**

Eligible employees in prevailing wage rate groups will be excused from work on the holidays of the institution or agency, irrespective of whether the holiday is observed under the appropriate multi-employer area agreement if applicable.

#### **C. Holiday Work**

In the event that work is required of an employee on any holiday recognized by the employing institution or agency:

1. Employees in prevailing wage rate groups will be compensated in accordance with the Prevailing Wage Act and/or prevailing practice on those holidays designated in the appropriate multi-employer area agreement or university policy.

#### **D. Holiday on Non-work Day**

For employees who normally work a Monday-through-Friday schedule, holidays which fall on a calendar Saturday or Sunday may be observed either on the preceding Friday or the following Sunday; or on another day in the workweek if operational needs so require. Employees who normally work other than a Monday-through-Friday schedule, and who are not scheduled to work on a calendar holiday, will receive, as determined by the Employer, a minimum of either (1) a scheduled work day off within two weeks of the recognized holiday, or (2) an additional day's pay at the regular rate.

#### IV. PAID LEAVE

##### A. Vacation

1. Each employee who is nonexempt under the Fair Labor Standards Act, and each employee who is exempt as an executive or administrative employee but who (1) is required to work a fixed shift and (2) receives overtime compensation if required to perform overtime shall earn Vacation at the rate which is shown opposite the employee's service years in Schedule A.

##### SCHEDULE A

Years of Service		Rate Earned Per Hour of Pay-Status Service (Exclusive of Overtime)	Approximate Leave Days Earned in One Year
At Least	Not More Than		
0	3	.0462	12
3	6	.0577	15
6	9	.0692	18
9	14	.0808	21
14		.0962	25

2. Each employee who is (1) an executive, administrative, or professional employee as defined under the Fair Labor Standards Act, (2) not provided with a fixed or rigid daily and weekly schedule, and (3) required to discharge duties, the discharge of which usually requires a certain amount of flexibility in such schedule, shall earn Vacation at the rate which is shown opposite the employee's service years in Schedule B.

##### SCHEDULE B

Years of Service		Rate Earned Per Hour of Pay-Status Service (Exclusive of Overtime)	Approximate Leave Days Earned in One Year
At Least	Not More Than		
0	3	.0962	25
3	6	.1000	26
6	9	.1038	27
9		.1077	28

## **B. Paid Leave Provisions**

1. During the initial probationary period, an employees' use of earned vacation (either days taken or paid days) is permitted, subject to supervisory approval and operational needs. If separation occurs during the probationary period, no penalty is imposed.
2. Based on mandated changes or compliance with Federal, State, and regulations, such as that contained within the terms of the Fair Labor Standards Act, and as applied to the definition of employees in section IV(A)(1) and (2), Paid Leave, an employer may allow an employee hired prior to the effective date of the mandated change the opportunity to continue earning vacation on the same accrual schedule prior to the mandated change.
3. An employee may accumulate at the employee's then current accrual rate an amount of leave equal to that earned in two service years but upon reaching this accumulation will cease to earn leave except as the accumulation is reduced. Employees converting from principal administrative positions to a status civil service position may be allowed to transfer balances greater than the two year accumulation maximum.
4. Each institution shall issue appropriate rules and administrative procedures to assure that within the total amount of Vacation accumulated, and employer operations permitting, periods of vacation shall be planned and scheduled by the institution after taking into account employee preferences.
5. Where there has been a break in service, the service year shall be computed as though all previous State service which qualified for earning of Vacation benefits is continuous with present service, i.e., service during each separate period of employment, whether institution or other State service, shall be added together to arrive at total service. This provision is effective October 1, 1972. It applies to the future earning rate of eligible employees on the institution's rolls on this effective date as well as to those who enter or reenter institution service after that date.

## **C. Sick Leave**

1. An eligible employee shall earn credit for Sick Leave with full pay at the rate of one work day for each month (.0462 per hour for each hour of pay-status service). The amount of leave accumulated at the time when illness or injury begins shall be available in full, and additional leave shall continue to accrue while an employee is using that already accumulated.
2. There shall be no limit in the amount of Sick Leave which may be accumulated.
3. An eligible employee may use accumulated Sick Leave for the illness, injury, or medical appointment of the employee, employee's children, spouse, civil union partner, same-sex domestic partner, siblings, parents, grandchildren, grandparents, or members of the employee's household. "Children" include biological, adopted, foster, stepchildren, legal wards, children for which an employee is standing *In loco parentis*, and children who are members of the employee's household. "Parent" is defined as a biological parent, stepparent, parent-in-law, or an individual who stood *In loco parentis* to the employee. Sick Leave may also be used for pregnancy or following the birth or adoption of a child to care for that child, not to exceed 12 weeks. The use of allowable sick leave utilized for those listed above, except an employee, may be limited to an amount of what is accrued over a six month period

if so listed in the employer's policy. Additionally, each institution shall reserve the right to require acceptable evidence of disability, illness, or injury.

5. A former employee who separates in good standing and returns to employment within two years, shall have former accrued Sick Leave restored.

#### **D. Funeral Leave**

1. Approval, with pay, will be granted to an eligible employee for a leave of up to three work days for the death of a member of the employee's immediate family, household, in-laws, and/or grandparents of immediate family; and of one day to attend the funeral of a relative outside the employee's immediate family or household.

2. Immediate family is defined as: father, mother, sister, brother, spouse, and children. In-laws are defined as: mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law. Additional family members considered "immediate family" may be further determined by each institution.

#### **E. Bereavement Leave**

An eligible employee shall be entitled to use a maximum of two weeks (ten work days) of unpaid bereavement leave to attend the funeral or alternative to a funeral of a child, make arrangements necessitated by the death of the child, or grieve the death of the child. In the event of the death of more than one child in a 12-month period, an eligible employee is entitled to up to a total of six weeks of bereavement leave during a 12-month period.

#### **F. Jury Duty**

An eligible employee shall be granted a leave of absence without loss of pay when called for Jury Duty service.

#### **G. Military Leave**

1. Leave of absence with pay shall be granted in accordance with the Military Leave of Absence Act (5 ILCS 325/1) to an eligible employee for military training who is a member of any reserve component of the United States Armed Forces, including the Illinois National Guard. The length of the leave with pay for training will not exceed standards established by federal or state regulations for training activities required to maintain standing in the above military units. During leaves for military training, the employee shall be eligible for compensation and benefit programs in accordance with applicable state and federal regulations.

2. Leave of absence with pay shall be granted in accordance with the Military Leave of Absence Act (5 ILCS 325/1) and Section 36g of the State Universities Civil Service Act (110 ILCS 70/36g) to an eligible employee who is a member of any reserve component of the United States Armed Forces, including

the Illinois National Guard or Illinois State Militia who is mobilized to active duty. During leaves for active duty, the employee shall be eligible for compensation and benefit programs in accordance with applicable state and federal regulations.

#### **H. Returning from Military Leave**

1. In accordance with provisions of the Servicemen's Employment Tenure Act, the Military Selective Service Act and the Employment and Reemployment Rights of Members of the Uniformed Services Act, an employee returning from leave for military service will be restored to the position of employment which the employee left, with the same increases in status, seniority, and wages that were earned during the term of military service by employees in like positions, or to a position of like seniority, status, and pay, unless the University's circumstances have so changed as to make it impossible or unreasonable to do so, or if the employee's position was temporary. Reemployment of Civil Service employees in provisional appointments will also be subject to Section 250.70(b) of the State Universities Civil Service Statute and Rules concerning conditions for provisional appointments.

2. Employees returning from leave must have received a certificate or other evidence of honorable discharge or satisfactory completion of military service, and must make application for reemployment within 90 days after being relieved from military service, or from hospitalization continuing after discharge for a period of not more than one year.

3. Employees must be still be qualified to perform the duties of the position of employment from which leave was taken. If, as a result of military service, the employee is not physically or mentally qualified to perform the duties of the former position, the employee will be restored to a position for which he or she is qualified and able to perform the duties and which will provide the similar seniority, status, and pay, or the nearest approximation thereof, consistent with the circumstances of the case. Restoral to such a position is not required if it would cause undue hardship to the University.

#### **I. Excused Absence With Pay**

Rules providing for excused absence with pay shall be issued by the governing board of each institution or agency or by an official to whom delegation has been made as the institution or agency determines to be in its best interest. Reasonable limitations on such excused absences shall be included.

#### **V. TRANSFER OF BENEFIT CREDITS**

A current status employee within the System who is selected for employment by another institution within the System and enters on such employment without break in service will be (1) credited by the hiring institution with that amount of accumulated Sick Leave which the employee had credit on the last day of service with their previous System employer and (2) granted eligibility by the hiring institution to earn future Vacation and Personal Leave benefits based upon the employee's total continuous service to a previous System employer as computed by that employer.

## **VI. EDUCATIONAL BENEFITS**

1. Tuition and fee waiver shall be granted by each institution to an eligible employee of that institution or of any other institution or agency named in Section 36e of the Civil Service Act who enrolls in courses up to the following maxima in any semester or quarter. Exceptions to the semester hour limitations will be managed on a case by case basis by the Designated Employer Representative (DER) of the enrolling institution or through otherwise established policy at each institution.

Full-time employee..... 6 hours or 2 courses

3/4-time employee..... 4 hours

1/2-time employee..... 3 hours

2. These maxima are employee benefit limitations and do not apply to enrollment in approved work-related training programs; the purpose of which is to improve University services. Based on program of study, budget limitations and/or funding source, certain fees may or may not be waived; to include registration fees and admission fees. In the case of an institution's own employees, no charge will be made for service type fees such as those imposed to secure revenue for bond retirement, etc. These latter (i.e., service type) fees will not be waived for an employee of another institution. Employees may enroll for class work during regular working hours for only one course and only as approved by their supervisors and then if the course is only offered during working hours. When such permission is granted the employee will make up time (1) working outside of the employee's regularly scheduled hours as approved by the employee's supervisor or (2) deducting the time spent in class from the employee's accumulated Vacation and Personal Leave.

3. A student as defined in Rule 250.70(f)(3) is not eligible for a status appointment and may not be granted tuition or fee waivers as an employee benefit.

***Amended and approved at the Two-Hundred and Fourth meeting of the Merit Board on August 16, 2017.***



**Section 250.119 Furloughs**

~~This Section is applicable through September 30, 2017.~~

- a) ~~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 layoffs.
- b) ~~b)~~ Employee Terminations. An employee on a temporary or extra help appointment shall be terminated prior to implementation of the furlough program, unless the appointment is required based on health and welfare or public safety, or a designated grant or other funding source.
- ~~b)c)~~ ~~SAH~~ student appointments subject to Section 250.70(e) shall be placed in furlough status for a commensurate amount of time which is generally equal to that of traditional civil service staff ~~terminated subject to Section 250.70(e)~~, unless the student appointment is required for health and welfare or public safety, or the appointment is part of the student's financial aid, or if the student is receiving academic credit as part of the conditions of the student appointment.
- ~~e)d)~~ ~~d)e)~~ 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. 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, may be exempted from the furlough program. Employees in positions considered essential to the critical mission of an employer, such as those related to health and welfare or public safety, may also be excluded from participation in a furlough program. Uniform participation and selection criteria shall be developed by the employer and consistently applied. This Section shall only apply to employees who are designated within the employer's furlough program in accordance with subsections (c) through (m).
- ~~d)e)~~ ~~d)~~ Notification of Furlough Program to Employees. Once an employer plans to implement a furlough program, the employer shall notify all employees 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.
- ~~e)f)e)~~ 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

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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.

f) 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:
    - A) 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; and
    - B) pension credit for furlough time can be purchased by an employee as provided under Section 15-113.11 of the Illinois Pension Code [40 ILCS 5] (i.e., for furlough time taken between July 1, 2015 and June 30, 2017, pension credit can be purchased; otherwise, it cannot).
  - 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 by the Governing Boards of the universities and agencies served by the University System.
- g) 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).
- h) Employer's Tracking of Furlough Days. In order for an employee to continue under the State Employees Group Insurance Act of 1971 [5 ILCS 375], the employer is required to track designated furlough days for each employee.

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- i) Accumulation of Seniority during a Furlough Status. An employee shall continue to accrue seniority during any and all furlough work days.
- j) 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.
- k) 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.
- l) 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 is not intended to circumvent or supersede other State or federal labor laws and/or regulations that apply.
- m) 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 the implementation of any employee being furloughed. The employer shall include in the notification the following:
  - 1) Whether the furlough program is for the entire employer or designated divisions or programs;
  - 2) What considerations have been contemplated or invoked for other employees, such as those listed in Section 36e of the Act;
  - 3) An explanation of the facts related to the temporary nature of the event causing the furlough program;
  - 4) The funding deficit related to the affected work areas;
  - 5) The approximate number of employees affected by the furlough program; and
  - 6) The beginning date and ending date of the furlough program.

- m) Reporting requirements for a Furlough Program. An employer shall provide quarterly reports during a Furlough Program. These reports shall contain:
- 1) Summary of positons and number of positions affected by the program.
    - a. Approximate amount of savings for the designated positons/employees
  - 2) Summary of positons and number of positions affected by the program or invoked for other employees, such as those listed in Section 36e of the Act;
  - 3) An explanation of the facts related to the temporary nature of the event causing the furlough program;
  - 4) Other related documentation as requested by the University System Office or other state and federal officials.

(Source: Added at 40 Ill. Reg. 16302, effective December 12, 2016)

**Commented [JB1]:** Update this information

13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. 11192, effective August 4, 2016; amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 250.110 Separations and Demotions

a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation by the employee or other evidence of intent to separate from employment, the employee will be separated from his/her employer employment. The employer shall maintain all resignations or other documentation of evidence in accordance with the employer's record retention policy. ~~The Executive Director shall be notified promptly by the employer of all resignations.~~

### b) Leave of Absence

1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any intern appointment, provisional appointment, and/or probationary period in the new class.

2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position without pay.

### 3) Leave of Absence for Disability Leave

A) If an employee is no longer able to perform the duties and responsibilities of his/her position in the class due to a disability as determined by the employer's medical and/or psychological evaluation procedures, and/or in accordance with State and federal law, the employee will be required to take disability leave in accordance with subsection (b)(3)(B).

B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers' Compensation Act [820 ILCS 305], the Illinois Occupational



the employee may request a review of the termination decision pursuant to ~~Section 250.130~~ of this Part. The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 7+5 days after the original notification.

- 5) ~~The employer shall notify the Executive Director promptly of all terminations of employment, setting forth the reason for the termination.~~

d) Job Abandonment (No Call/No Show)

- 1) An employee who fails to report to work for 3 consecutive regularly scheduled work days will be placed in a no call/no show status and may be terminated at any point following the third day of failing to report to work pursuant to an employer making a reasonable attempt, with supporting documentation, to make contact with the employee using the employee's last known address, phone contact, email or any similar contact information.

- 2) Pursuant to Section 250.130, the employee may request a review of the employer's final notice of termination. The review is limited to a determination of whether this subsection (d) has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 7 days after the original notification.

ed) Layoff

- 1) A layoff is defined as a stoppage of work required by management, a discontinuance of employment, or the permanent termination of employment of an employee for business reasons, such as the decision that certain positions are no longer necessary or a business slow-down or interruption in work has occurred.

- 24) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date

exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:

- A) The name and address of the witnesses sought;
  - B) Any specific documents the witnesses will be required to bring; and
  - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. At least 3 working days prior~~Prior~~ to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
- A) A list of the names and addresses of the witnesses the party proposes to call; and
  - B) All documents the party proposes to offer in its case-in-chief.
- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.
- A) Failure to Appear by Employee
    - i) A Notice of Convening of Hearing will be sent to all parties of record confirming the date, time and place of the hearing. If an employee or his/her representative is not present on the designated hearing date, the employer will try to make reasonable contact with the employee or his/her representative immediately. If, within a reasonable time on



the hearing date, the employer is unable to contact the employee, the hearing will commence.

ii) The Executive Director or his/her authorized representative will commence the hearing with an opening statement. At the conclusion of the opening statement, if the employee or his/her representative has still failed to appear, the hearing will be suspended for 3 work days. During this 3 work day period, the Executive Director or his/her authorized representative will try to make contact with the employee or his/her representative using the last known address, phone, email or any similar method as shown on the Written Charges for Discharge form.

iii) If the employee or his/her representative cannot be reached within 3 work days or if the employee is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and the employee's discharge shall become effective at the end of the 15-day period of the date on the Proof of Service on Employee, as found on the Written Charges for Discharge form, without further action by the Merit Board. The Merit Board/University System office shall notify the parties of record immediately of the action.

iv) If the employee or his/her representative has a reasonable explanation for not attending the hearing, the Executive Director or his/her authorized representative shall schedule a new hearing date. A new Notice of Convening of Hearing will be issued to the parties of record and the Executive Director or his/her authorized representative will appoint either the same Hearing Board or Hearing Officer or appoint a new Hearing Board or Hearing Officer to conduct the hearing.

v) Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a family member, or other cause that is deemed reasonable by the Executive Director or his/her authorized representative. In any event, the employee is required to demonstrate that there was reasonable effort made to



contact the employer or the Merit Board/University System office.

B) Failure to Appear by Employer. If the employer fails to appear without reasonable cause, as determined by the Executive Director or his/her authorized representative, the employee will be reinstated to his/her position without loss of compensation as of the Proof of Service on Employee date on the Written Charges for Discharge form.

13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.

14) Ex Parte Communications

A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after the Notice of Convening of Hearing has been issued to the parties of record, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.

B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (gf), and related procedures, are not considered ex parte communications.