

To: Contract & Grants Officers

Subject: 2009-2010 University Furlough Program - Application to Extramural Awards

This memo is issued to document the guidance set forth by the Research Policy Analysis and Coordination (RPAC) Office regarding the University 2009-2010 Furlough Plan as it affects extramural awards. The guidance was issued via a document entitled "Q&A for Contract & Grant Officers Regarding the UC 2009-2010 Furlough Plan," initially distributed September 16, 2009, revised October 8, 2009, and posted to the web at the following url:

http://atyourservice.ucop.edu/administrators/docs/qna_contract.pdf. The "Q&A For Contract and Grant Officers" supplemented several guidance documents that were issued by other offices regarding administration of the 2009-2010 Furlough Plan. Those guidance documents are archived at the following url:

<http://atyourservice.ucop.edu/administrators/employment/furlough.html>

Though the web sites referenced above are the best way to access the most updated versions of the guidance documents, a copy of the October 8, 2009 version of the "Q&A for Contract & Grant Officers Regarding the UC 2009-2010 Furlough Plan" is attached to this memo, for documentation and archiving purposes.

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Q&A for Contract & Grant Officers Regarding the UC 2009-2010 Furlough Plan September 16, 2009

Revised October 8, 2009

This document was developed as a result of questions received by UCOP's Research Policy Analysis and Coordination (RPAC) unit from campus Contract & Grant Offices with regard to the UC 2009-2010 Furlough Plan. It is meant to provide expanded guidance to campus Contract & Grant Offices with regard to implementation. None of the answers provided herein are meant to supersede previous official communications by the Office of the President, including:

- Furlough FAQs posted to the UCOP Budget News website (http://www.universityofcalifornia.edu/budget/?page_id=87)
- Memos from Interim Provost and Executive Vice President Pitts (**see attached** memos of 08/26/2009 and 09/11/09 regarding Furlough Exchange Program)
- Furlough Q&A For Administrators (<http://atyourservice.ucop.edu/administrators/employment/furlough/index.html>)

1. What is UC's Furlough Plan?

On July 16, 2009, the University Of California Board of Regents approved a one-year systemwide Furlough Plan for UC employees, as a means of addressing the current extreme fiscal emergency faced by UC. Under the Plan, covered Faculty and staff will be required to take a specified number of "off-days" with no compensation (i.e., "furlough days.").

The Plan applies to all full- and part-time UC employees, except for:

- Employees of the Lawrence Berkeley National Laboratory;
- Academic and staff employees whose pay is funded entirely by Extramural funds (see definition of "Extramural" below);
- The portion of an employee's pay funded by Extramural funds (see definition of "Extramural" below);
- Student employees, including postdoctoral, graduate and undergraduate employees, health sciences trainees and postdoctoral fellows, except where those employees are exclusively represented by unions;
- Employees working reduced hours under the START program if their voluntary reduction is already equal to or exceeds the percent reduction for their respective pay band;
- Foreign national employees working pursuant to H-1B, H-2, H-3 and E-3 visas;
- Employees whose participation is precluded by law. (Employees with employment contracts that cannot be changed unilaterally by the University will be asked for a voluntary salary reduction appropriate for their pay band.)

Employees will receive the allotted number of furlough days specified by their salary band each month (details are available in the FAQs at http://www.universityofcalifornia.edu/budget/?page_id=87). Their pay will be reduced by a corresponding percentage in even increments each month during the 12-month Plan period. The furlough plan reduces the amount of time worked and not the full time equivalent annual salary. So while employees are earning less, *their annual full time rate of pay remains unchanged.*

There are no current official federal policies or guidelines on furlough plans, and there is no federal requirement to have furlough plans approved. The following are Q's and A's on the implementation of the UC Furlough Plan vis-à-vis Contracts and Grants.

2. What constitutes an “Extramural award?” (revised September 17, 2009 and October 14, 2009)

For the purposes of the Furlough Plan, Extramural awards include federal, State, other government or private contracts, grants, and cooperative agreements. Extramural awards include Inter-campus “subawards” received from a sister campus holding the prime Extramural award. The term “Extramural” does not include funds generated from indirect costs recovery, royalty sharing, and State general funds (199xx fund series).

In addition, for the following OP-administered programs, grants awarded to campuses from State appropriations in the 18xxx fund series are considered Extramural for the purpose of the Furlough Plan and Furlough Exchange Program described in question 4 below:

- California Subject Matter Projects (CSMP)
- Tobacco-Related Diseases Research Program (TRDRP)
- California Breast Cancer Research Program (CBCRP)
- California HIV/AIDS Research Program (CHRP)
- Lab Fees Research Program

Note that Office of the President employees paid on these same appropriations for the administration and management of these programs *are* subject to the furlough.

3. How does the Furlough Plan apply to Extramurally funded non-Faculty employees? (revised October 8, 2009)

An employee whose salary is entirely funded from Extramural awards is automatically excluded from the Furlough Plan. An employee who is partially funded from Extramural awards is partially excluded from the Furlough Plan in proportion to the salary funded by Extramural awards. In other words, an employee who is 100% funded from a federal award will not have ANY furlough days. An employee who is paid 50% from Extramural funds will be required to take HALF the number of furlough days that would otherwise be required for someone in their salary band.

Non-Faculty staff employees, e.g. researchers, may increase or decrease their effort on Extramural awards, as long as there is compliance with established University and sponsor policies. However, furlough obligations would need to be recalculated each time there was a change in the effort charged to an Extramural award. *Note that at any given point in time, unless a non-Faculty employee is funded entirely out of Extramural awards, he/she will still have at least a partial furlough obligation. This is an important distinction from the Furlough Exchange Program available to Faculty and discussed below in question 4.*

4. How does the Furlough Plan apply to Extramurally funded Faculty employees? (Revised October 8, 2009)

Faculty who are subject to furlough days and who wish to increase their effort on Extramural awards on what would otherwise be a furlough day, can participate in the Furlough Exchange Program (FEP). Typically such Faculty are not currently charging their Extramural awards for effort during the academic year.

For the purpose of the FEP, “Faculty” includes full-time employees appointed to a professorial title or lecturers with Security of Employment *and* Faculty equivalents (as defined by Section 115-0 of the Academic Personnel Manual [<http://www.ucop.edu/acadadv/acadpers/apm/apm-115.pdf>]).¹ While the vast majority of faculty do not currently charge their extramural awards, those who are partially funded from Extramural awards are partially excluded from the Furlough Plan in proportion to the salary funded by Extramural awards.

The FEP has two options.

- The first option allows Faculty to participate in the FEP for the entire period of the furlough plan (September 1, 2009 – August 31, 2010). This option was described in a memo to Chancellors from Interim Provost and Executive Vice President Lawrence Pitts on 8/26/09 (“FEP 8/26/09 memo”), (see AA 09013 document attached).
- The second option allows Faculty to participate in the FEP on a partial year basis for *entire academic term(s)* (semester or quarter as applicable). The first potential period of participation would be the winter semester/quarter. This alternative to the FEP is described in an Addendum memo entitled Salary Exchange Program (FEP) Addendum Partial-Year Participation Option, dated 9/11/09 (see AA 09016 document attached).

Under either option:

- Faculty must completely offset their furlough for the elected participation period (i.e., Full year, Full Semester(s), Full Quarter(s)).
- Exchanged furlough days must be used during the participation periods, and may not be used for any other purpose, including additional consulting days and campus closures.
- During non-participation periods, Faculty would be subject to the Furlough Plan.
- There must be compliance with the award terms, and prior approvals must be sought when necessary. (Also see Q&A #8 below.)
- All charges to Extramural awards must be within the period of performance of the award, unless the sponsor allows the charging of pre-award expenditures.
- It is acceptable to use different Extramural awards, as some expire and others are awarded, but the entire elected participation period must be covered.
- Extramural awards and restricted gifts and endowments that can be used for research support may be used to qualify for the FEP.
- Faculty may not earn more than his/her normal annual pre-reduced compensation.

¹ 10/08/09: While a previous version of this Q&A indicated that faculty who are members of a Health Sciences Compensation Plan could not participate in the FEP, a decision has since been made that would allow them to participate (communicated to Health Sciences Deans in a 9/22/09 memo from Senior Vice President of Health Sciences and Services John Stobo). Campuses have made varying decisions with respect to whether/how to incorporate health sciences faculty into the FEP eligible pool. Anyone seeking campus-specific information should contact their Academic Personnel Office.

Campuses may set specific deadlines to elect to participate in the FEP, though generally, Faculty choosing the first option above would need to decide which existing Extramural awards they will use for the FEP by the close of the September 2009 payroll deadline (generally the 22nd of the month). There may also be well justified cases, in which payroll changes would be made by the October payroll deadline. Since Faculty choosing the second option cannot participate until the start of the winter quarter/semester, campuses should be ready to handle these elections on a timelier basis.

Per the FEP 8/26/09 memo, retroactive participation is not permitted. Please, note, however, that Faculty salary and benefits paid in July and August of 2009 are for 2009-10 academic year effort. Therefore, under the full year FEP option, the transfer of charges for July/August salaries and benefits to the Extramural award for work conducted in September and October is allowed, as long as such action is compliant with award terms and the transfers are made within 120 days of incurrence, per University Business and Finance Bulletin, A-47, *University Direct Costing Procedures*, <http://www.ucop.edu/ucophome/policies/bfb/a47.pdf>.

Questions regarding the specific implementation of the FEP should be addressed to your campus Academic Personnel Office.

5. If a contract or grant includes voluntary committed or mandatory cost sharing in the form of effort paid by state funds, how will the Furlough Plan affect the award?

Because the Furlough Plan reduces the number of days an employee works, the amount available for cost sharing under these circumstances is being reduced. Therefore, under University Policy, awards that include academic year salary as all or part of mandatory cost sharing commitments may be used for the FEP only if alternate sources of cost sharing are identified, or prior approval for the reduction from the sponsor has been secured.

Any reduction of voluntary committed or mandatory cost sharing previously identified in the proposal budget or award must be approved by the sponsor agency.

6. Who is ultimately responsible for changes to the Extramural award?

The Principal Investigator (PI) is responsible for the technical, administrative, and fiscal management of a project. Neither the UC 2009-2010 Furlough Plan nor the Furlough Exchange Program shifts from the PI the ultimate responsibility for assuring that all costs are allowable, allocable, and consistent with the terms of an award from the Principal Investigator. Contract & Grant Offices will lend their expertise in making these determinations when requested to do so. The PI must endorse all charges to the grant including any adjustments to the budget.

7. What is the role of the campus Contract & Grant Office?

Contract & Grant Offices should be consulted if there are any questions about whether under a specific agreement prior approval from, or notification to the sponsor is required. Contract & Grant Offices should be consulted when there is any uncertainty as to the flexibility of the award terms.

8. When is prior sponsor approval required? (revised September 17, 2009 and October 8, 2009)

Any changes to the administration of an award that will significantly affect the *scope of work* require prior approval. Therefore, FEP charges or other furlough related rebudgeting that is so significant relative to the total budget that the result is a change in the scope of work, require notification to the sponsor. Under the National Institutes of Health Grants Policy Statement, rebudgeting of more than 25% of a budget line item is one possible indicator of a significant change in the scope of work.

The terms and conditions of any given contract or grant award govern the ability to *re-budget* project funds. Some awards are somewhat flexible, others are not. For instance, State awards do not generally allow for rebudgeting without prior approval. Many federal agencies issue grants and cooperative agreements under standard Research Terms and Conditions (RTC) based on Federal Demonstration Partnership (FDP) (expanded authorities.) Under this core set of administrative requirements prior agency approval for re-budgeting is typically not required. One notable exception is the NIH Kirschstein-NSRA grant program under which the PI must seek prior approval for any budget revision that impacts the scope of work or results in the re-budgeting of funds allotted for training allowances.

The following link provides guidance on prior approval requirements for FDP participating federal agencies: <http://www.nsf.gov/bfa/dias/policy/rtc/priorapproval.pdf>. Please note that other federal agencies may elect to use the RTC terms on selective awards to their research recipients. The terms and conditions of the award will indicate when RTC conditions apply.

When standard RTC apply and prior approval is not required to re-budget funds, departments may charge for additional effort, for either the PI or another Faculty member, without seeking additional agency or Contract & Grant Office approval if: 1) the PI agrees, 2) sufficient Extramural funds are available, 3) the Faculty member whose time would be increased on an Extramural award is a member of the project team, 4) the proposed change in the budget is compliant with OMB Circular A-21 as well as all other award terms and conditions, 5) the change does not replace or reduce any committed cost shared Faculty effort on the project, and 6) the proposed change complies with campus policies, including any limits on maximum total effort expended on contracts and grants. Re-budgeting that results in a change in effort on the project must be reflected in agency progress reports and in the Personnel Activity Reports (PAR) or Effort Reporting systems.

For those federal agencies that have not adopted the standard RTC , and all non-federal agencies, the specific terms and conditions of the award will determine if re-budgeting to support additional effort is permissible and if sponsor prior approval is required. Contract & Grant Offices should be consulted for guidance.

With regard to the National Science Foundation (NSF) proposal regulation limiting the amount of salary for an individual investigator that can be charged to NSF in any 12-month period to no more than two-ninths of the investigator's academic year salary (please see Section II.C.2.g.(i)(a) of the *NSF Grant Proposal Guide* [http://www.nsf.gov/pubs/policydocs/pappguide/nsf09_29/gpg_2.jsp#IIC2gia] and Chapter V.B.1.a of the *NSF Award and Administrative Guide* [http://www.nsf.gov/pubs/policydocs/pappguide/nsf08_1/aag_5.jsp#VB1]), NSF has provided the following guidance in response to a question posed by UC (**emphasis added**):

“In summary, should an awardee wish **to charge additional time and compensation to an NSF grant, beyond the normal two month threshold for senior personnel, the awardee may do so through their normal rebudgeting authorities.** The charges must meet OMB Circular A-21 criteria for being reasonable, allocable and necessary, and the additional time must not change the scope of the project. If the change meets the criteria mentioned above, prior approval from NSF would not be required.

If there are questions regarding the necessity of the additional time or whether it would constitute a change in scope, the cognizant NSF Program Officer (PO) for the award should be consulted. If the PO feels that the additional time is not necessary for successful completion of the project or if it causes a change in scope which the PO does not agree with, they may not approve the change. The Foundation anticipates that in most cases the changes will fall under the awardee's normal rebudgeting authority and therefore, prior approval from NSF will not be necessary.”

As always, all charges to federal awards must conform to the tests of allowability of costs under OMB Circular A-21:

- (a) they must be reasonable;
- (b) they must be allocable to sponsored agreements, i.e., providing benefit to the grant or contract in proportion to the charge;
- (c) they must be given consistent treatment appropriate to the circumstances;
- (d) they must conform to any limitations or exclusions set forth in OMB Circular A-21 or in the sponsored award as to types or amounts of cost items.

9. Does the Furlough Plan affect the employee’s rate of pay that should be charged to an Extramural award?

No, the UC plan is a FURLOUGH (i.e., a reduction in paid work days), NOT a change in the annual full time RATE OF PAY. The rate of pay that an employee charges to State general funds or other funds during the year cannot be lower than the rate of pay that they charge to a federal award for summer salary. Therefore when estimating the cost of an employee’s time and effort to cover furloughed time, it is appropriate to use the employee’s 100% salary rate.

10. Since indirect cost recovery funds are from contracts and grants, can they be used to offset the furlough reduction?

No, indirect costs recovered from grants and contracts are reimbursement for expenses incurred by the University. Therefore, the recovered funds become University operating funds and cannot be used for the Furlough Exchange Program. Similarly, personnel supported from the indirect cost recovery funds are not exempt from the UC-wide Furlough Plan.

11. What effect does the Furlough Plan have on effort reporting? (Revised October 8, 2009)

Because the furlough requirement applies only to the state-funded portion of employees’ salaries, the payroll distribution displayed on effort reports of employees whose salaries are funded in part by Extramural awards will change, to reflect the increase in Extramural salary *in relation* to State

funding. Care should be taken that charges to an Extramural award reflect actual effort dedicated to that award. It is critical for employees to recognize the percent of total relative effort contributed to contract and grant activities must be *increased* in order to be consistent with the shift in payroll distribution, whether or not their absolute effort has increased.

Two examples are listed below to show how effort adjustments would work in practice.²

² 10/08/09: A previous version of this FAQ document used examples that assumed a 40 hour work week, for illustration purposes only. The document has been revised to delete the references to hours, in order to avoid confusion, since effort must be recorded as a percent of total effort (not hours), and since UC researchers are not compensated on an hourly basis.

Example #1, Effect of Furlough on Effort Reports: Assuming No Other Changes

Employee Y has a 50% assignment on a federal grant and 50% on State funded activities. She is not changing her time on the grant. Her salary charges to the grant will therefore remain the same. She is in the 8% furlough salary band. In this example, Employee Y can be a faculty member or non-faculty member.

Due to Employee Y's furlough obligation, the total amount of time she has available to work on State activities has effectively been reduced. Her effort report must reflect how she spends her total reduced time, and must equal 100%.

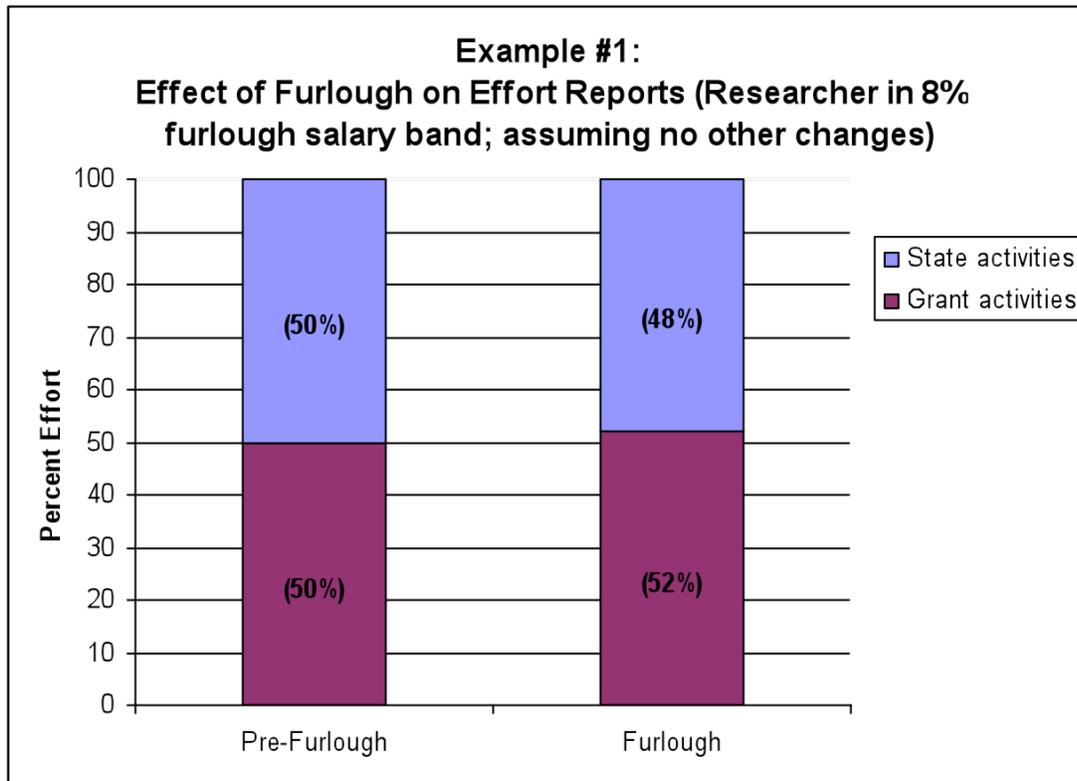
Employee Y's pre-furlough effort was 50% on State funded activities; 50% on the Federal Grant

Her reduced total time available during the furlough is 96% of what it used to be:

[50% of her FTE is subject to the 8% furlough;
50% effort x 8% = 4% of furlough time;
100% effort - 4% = 96%].

Her new effort during the furlough is:

48% on State funded activities [(50% - 4%)/96% = 48%]
52% on Federal Grant [50%/96% = 52%].



Example #2, Effect of Furlough on Effort Reports: Faculty Member using FEP

Faculty Member X has a 50% assignment on a Federal Extramural award and 50% on State funded activities. He is in the 8% furlough salary band. He now wishes to increase his effort (and salary charges) on the grant (which he can do by exchanging his furlough days for increased effort on the grant through the FEP). For effort reporting purposes, this means there must be a corresponding decrease in his State funded activities because his total effort must equal 100%.

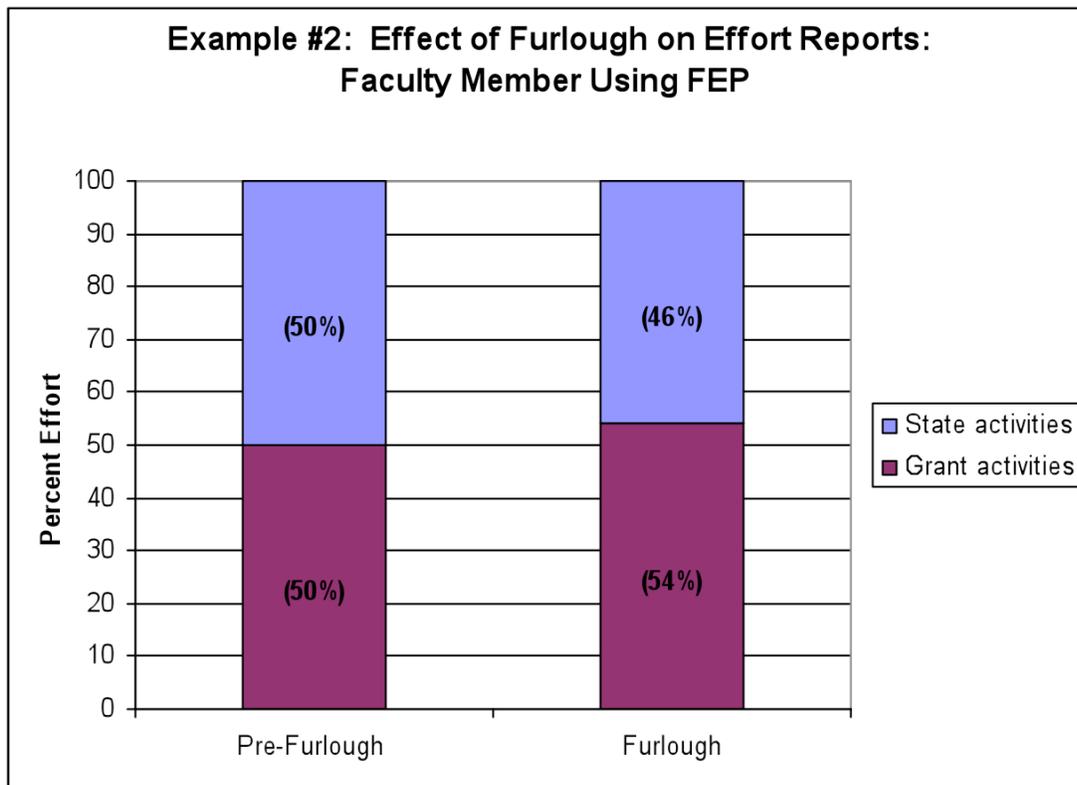
Faculty Member X's pre-furlough effort was 50% on State funded activities; 50% on the Federal grant

His total time available remains the same because he exchanged his furlough time for an increase in his grant effort.

His new effort during the furlough is:

46% on State funded activities $[(50\% - 4\%)/100\% = 46\%]$

54% on the Federal grant $[(50\% + 4\%)/100\% = 54\%]$



- Note 1: While faculty are not likely to be funded on a 50%/50% basis during the academic year, this example was chosen to illustrate the effects on effort reports when time on Extramural awards is increased as compared to Example 1 (where the researcher did not increase her time on her Extramural award).
- Note 2: Because Employee X is a faculty member using the FEP, he would have satisfied his entire furlough obligation by exchanging his furlough time for an increase in effort on the grant.
- Note 3: If Employee X were a **non-faculty** member increasing his effort on his federal grant (not through the FEP, which applies only to Faculty, but simply through an increase in effort), his **effort report** would be affected in the same manner as this example. Because a portion of his pay would continue to be funded by non-Extramural State sources, this employee would still be subject to the furlough. However, by increasing his effort on his Federal award, he would have reduced the portion of his pay subject to the furlough by 4%.