

MICHIGAN STATE
UNIVERSITY

Letter of Agreement
Between
Michigan State University,
And
The Administrative-Professional Association

WHEREAS, the parties acknowledge and agree that neither Michigan State University (hereinafter "the University" or "the Employer") nor the Administrative-Professional Association (hereinafter "the Association") is under any obligation to engage in mid-contract term negotiations or discussions but at the request of the University, the Association voluntarily agreed to undertake such discussions;

WHEREAS, the parties acknowledge and agree that the coronavirus/COVID-19 pandemic health and economic conditions constitute unforeseen circumstances requiring emergency response;

WHEREAS, the parties have worked to come to an understanding in the best interests of the University and its employees;

NOW THEREFORE, as a result of discussions between the Parties, the following is hereby agreed as an addition to the Collective Bargaining Agreement between Michigan State University and the Administrative-Professional Association. The Association and the University agree this Letter of Agreement is part of the parties' collective response to the coronavirus/COVID-19 pandemic and will not set precedent in any other matter.

1. The University may temporarily place any employee on an unpaid furlough for up to six (6) months commencing on or after May 10, 2020. All unpaid furloughs under this Letter of Agreement must end as of December 31, 2020. April 1, 2020 shall be used to define an employee's unit, primary work location and classification for the purpose of this Letter of Agreement. April 1, 2020 shall also be used to define leave status under Paragraph 2.b. of this Letter of Agreement. Routine changes that occurred after April 1, 2020 such as awarding a job or granting a leave under the terms of the Agreement, will be continued and the resulting effective date will be used.
 - a. The University may select the employees to be placed on furlough based on operational needs, including financial exigency or lack of



**Human
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Employee Relations

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work which is expected to be temporary, which are caused by, or related to, the coronavirus/COVID-19 health crisis.

- b. The University shall honor employee requests to volunteer to be placed on an unpaid furlough unless operations do not allow for that employee to be placed on an unpaid furlough. In such a case, the University shall provide a written statement of the reasons for its decision to the employee and the Association.
- c. The selection of employees to be placed on unpaid furlough status shall be based on those employees:
 - i. within a unit (as defined in paragraph 118 of the parties 2019 to 2023 Collective Bargaining Agreement) and
 - ii. within primary work location that is affected by unpaid furloughs and
 - iii. within the affected classification.
- d. Probationary Employees within a unit (as defined in paragraph 118 of the parties 2019 to 2023 Collective Bargaining Agreement) and within a primary work location that is affected by unpaid furloughs and within the affected classification, will be furloughed before non-probationary Employees are furloughed. Provided, however, this provision shall only apply where the non-probationary employee(s) is (are) capable of performing the work at the time the unpaid furlough is commenced. The probationary period for furloughed probationary employees shall be extended by the number of days the probationary employee is furloughed.
- e. Where capability to perform the work remaining is equal, the Employer will follow these priorities when placing employees on unpaid furlough within a unit (as defined in paragraph 118 of the parties 2019 to 2023 Collective Bargaining Agreement) and within the primary work location and within the affected classification that is affected by unpaid furloughs:
 - i. Temporary employees before permanent;
 - ii. Employees with unsatisfactory records before Employees with satisfactory records. An Employee shall not be considered unsatisfactory until the Employee's performance is determined to be unsatisfactory in two consecutive evaluations that were presented to, or signed by, the employee by April 1, 2020.
 - iii. Employees with short service before Employees with long service.
- f. The University may not select an employee for unpaid furlough for reasons that would constitute discrimination against any protected classification recognized by law or University policy, including those who have engaged in concerted protected activity under Michigan's Public Employment Relations Act.

- g. The University shall provide seven (7) calendar days' notice before placing any employee on an unpaid furlough. Such notice shall include reason for the furlough, effective date of the furlough, benefits received during the furlough, the anticipated date the employee is to return from the furlough (if known), a contact person regarding the furlough and the return along with information on how to obtain unemployment. This notice may be provided electronically, and the information may be provided through a link or other reference to information available on the internet. A copy of the notices shall simultaneously be provided to the Association via email.
 - h. Unpaid furloughs shall be commenced at the start of the employee's work week and shall end at the end of an employee's work week.
 - i. An unpaid furlough is intended to last at least thirty (30) calendar days and may not be used to rotate (toggle) employees between unpaid furlough and active status whether on daily, weekly or monthly basis. An employee on an unpaid furlough may be required to perform one (1) week of work during a furlough due to pressing operational needs. The employee shall be paid for this work.
 - j. The University shall not utilize any individual from a temporary service/agency to replace a furloughed employee during any period of time when that employee is on unpaid furlough.
 - k. Students shall not be used to replace a furloughed employee during any period of time when that employee is on unpaid furlough.
 - l. Employees in other bargaining units shall not be utilized to replace a furloughed employee during any period of time when that employee is on unpaid furlough.
 - m. Employees who are provided layoff notices during the period of April 30, 2020 through May 10, 2020 shall have their status converted to unpaid furlough, provided that said employees shall be afforded a combined seven (7) days-notice to comply with Paragraph 1.g. above.
2. The University will continue health insurance, employer-paid life insurance and dental benefits for those employees in benefits eligible positions who are placed on unpaid furlough for up to six months. Such coverage will be subject to employee enrollment and eligibility. Employees will be required to make any contributions as required prior to the employee's placement on unpaid furlough.
- a. In recognition of the provisions of the MSU/Coalition Health Care Agreement, for purposes of determining the Base Wage Factor Average, the following will apply to the calculation:
 - i. The health care costs of employees on unpaid furlough will be counted in the Health Care Cost Experience used as the numerator of the calculation.

- ii. The total number of employees on unpaid furlough will be counted as part of the total eligible used in the denominator of the calculation.
 - b. The continuation of health care under this Letter of Agreement shall only apply to those specifically placed on an unpaid furlough under this Letter of Agreement and not to those who have already been laid-off or who are on other forms of leave, paid or unpaid.
- 3. Employees shall not be required to use or permitted to use accrued leave time when placed on unpaid furlough. Employees placed on unpaid furlough shall maintain their leave time while on unpaid furlough. However, any unused personal time for fiscal-year 2019-2020 shall be paid out to an employee placed on unpaid furlough prior to June 30, 2020 which such payment to be made prior to July 31, 2020.
- 4. Employees placed on unpaid furlough will not have access to any payments attributed to being laid-off, including severance payments, Layoff Transition Adjustment Payments, or the payment of unused sick or vacation time. The payment of personal time is set forth in paragraph 3 above. Employees may access such payments if the furlough is turned into a permanent layoff as described in paragraphs 8 and 10 below.
 - a. Employees who elect to resign employment with the University during an unpaid furlough will be paid for accruals (compensatory time, vacation and portions of sick time as described in the applicable collective bargaining agreement) as if they resigned from active employment.
 - b. Employees who elect to retire from the University during an unpaid furlough will be paid for accruals (compensatory time, vacation and portions of sick time as described in the applicable collective bargaining agreement) as if they retired from active employment.
- 5. Employees on an unpaid furlough will continue to accrue University and bargaining unit seniority towards longevity, educational assistance, course fee courtesy and, if the employee is eligible, time toward the University's contribution for retirement health care. Employees on an unpaid furlough will not accrue vacation, sick leave or vacation service months. Employees who are placed on an unpaid furlough prior to July 1, 2020 shall receive the full allotment of personal time for fiscal year 2020-2021 upon return to work or July 1, 2020 whichever is later. Only one allotment of twenty-four (24) hours of personal time may be received for any fiscal year. Employees who are placed on an unpaid furlough will maintain their same anniversary/progression date before being placed on an unpaid furlough and receive their anniversary/progression raise upon return. Time on an unpaid furlough shall not be used against employees in future evaluations and merit pay considerations.

- a. Employees who are furloughed under this LOA on the date set to determine eligibility for longevity payment, and who are otherwise eligible, will remain eligible as if there had been no break in service between the date of furlough and the date of eligibility determination. The longevity payment will be paid to the furloughed employee on the normal date scheduled for payment if the employee has returned from furlough before said date. If an eligible employee is on unpaid furlough on the date scheduled for disbursement of the longevity payment, the employee will receive said payment upon his or her return from furlough.
 - b. Employees furloughed under this LOA who are eligible for educational assistance shall retain their current level of educational assistance (including professional development) and courtesy fee benefits as defined in the parties 2019 to 2023 Collective Bargaining Agreement as if the employee was still working full-time in the employee's pre-furlough position. The exclusions applicable to layoffs, will not apply to furloughs.
6. The University shall have the right to recall employees from an unpaid furlough within an affected unit (as defined in paragraph 118 of the parties 2019 to 2023 Collective Bargaining Agreement) and within the primary work location that was affected by unpaid furloughs and within the affected classification. The University may recall an employee from furlough earlier than the duration (if known) that was previously provided to the employee. It is understood that the position to which an employee is recalled may involve different duties, hours, and supervision.
 - a. The University shall recall employees on the following basis:
 - i. Employees with satisfactory records before Employees with unsatisfactory records. An Employee shall not be considered unsatisfactory until the Employee's performance is determined to be unsatisfactory in two consecutive evaluations that were presented to, or signed by, the employee by April 1, 2020.
 - ii. Employees with long service (seniority) before Employees with short service (seniority).
 - iii. Non- Probationary Employees before probationary employees.
 - iv. Permanent employees before temporary employees.
 - v. The University may not make this selection for reasons that would constitute discrimination against any protected classification recognized by law or University policy, including those who have engaged in concerned protected activity under Michigan's Public Employment Relations Act.
 - b. Recall notices under this Paragraph 6 shall be sent to the employee via email to the employee's MSU NetID mail address.

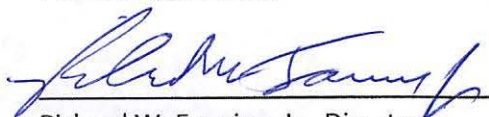
- c. The employees shall have seven (7) calendar days to report back for duty after recall or shall be deemed to have resigned. In exceptional cases, or because of a serious health condition, or the employee is caring for a family member with a serious health condition, the employee may request an additional seven (7) calendar days before reporting to work. The University shall have the right to refuse such a request, but a request shall not be refused for reasons that are arbitrary, capricious or discriminatory. A refusal to accept the recall to an offered position shall also be deemed to be a resignation.
7. Employees on unpaid furlough shall not be entitled to any recall or by-pass rights under applicable CBAs but may apply for open jobs as an internal candidate. Any recall/by-pass rights shall be forfeited if the employee voluntarily accepts another position at the University.
8. An unpaid furlough may be transformed into a permanent layoff by providing the employee the layoff notice required under the applicable collective bargaining agreement. The employee will then have all rights (seniority selection for layoff, payouts, etc.) as would otherwise apply under the applicable collective bargaining agreement. If the person selected for layoff under applicable contractual provisions is already on an unpaid furlough, the University may choose to satisfy the notice period by paying that employee for the length of the notice period without returning the employee to duty. Time spent on an unpaid furlough shall not count towards the layoff notice period.
9. Unless renewed or extended in accordance with the collective bargaining agreement, any temporary or end-dated employee whose scheduled end of employment occurs during a furlough will be considered to have been terminated due to the expiration of their term of employment. Notice shall be provided in such a case when and as required under the parties collective bargaining agreement.
10. Employees who are not returned to work after being on unpaid furlough for six (6) months shall be deemed to have been notified of permanent layoff at the end of said six (6) month period, and the Association will receive notification of all such employees who are not returned to work.
 - a. An employee shall then have any rights (seniority selection for layoff, payouts, etc.) as would otherwise apply under the applicable collective bargaining agreement.
 - b. If the person selected for layoff under applicable contractual provisions is already on an unpaid furlough, the University may choose to satisfy the notice period by paying that employee for the length of the notice period without returning the employee to duty.
11. The University agrees not to challenge any non-fraudulent filing for unemployment benefits for any person placed on an unpaid furlough under this Agreement.

12. The parties agree they have fully negotiated the above terms and the Association will not pursue any grievance, arbitration demand, complaint, charge, lawsuit, or challenge of any type raising issues addressed above. Provided, however, a grievance may be used for enforcement of the terms of this LOA. Provided, further, the Association or any furloughed employee are not precluded from filing a grievance or ULP based on Section 1.f. or 6.v. above.

The parties agree they have fully negotiated and satisfied any obligation to bargain over, the following:

- a. the decision, and effects thereof, not to implement the University's policy concerning modified operations;
 - b. decisions to, and effects thereof, requiring or not allowing employees to report for work; and
 - c. decisions to, and effects thereof, requiring employees to use accumulated time or prohibiting such use.
13. If the Federal or State government enacts any law after the execution of this agreement which impacts the terms of this Letter of Agreement, the parties will meet and discuss the effects.
14. The parties agree the terms of this agreement are unique to the situation presented by the global coronavirus/COVID-19 pandemic and shall not set any form of precedent in any other matter.

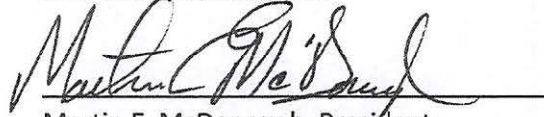
FOR THE EMPLOYER



Richard W. Fanning, Jr., Director
Office of Employee Relations

Date: 5/16/2020

FOR THE APA/MEA/NEA



Martin E. McDonough, President
Administrative Professional Association

Date: 5/5/2020