



Furloughs, Layoffs and RIFs — Best Practices in Policy Development in the Wake of COVID-19

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May 6, 2020

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Q & A

Don't forget to submit your questions to our presenters.

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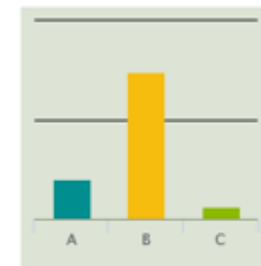
Poll Questions

Click on your screen in the box next to your answer choice.

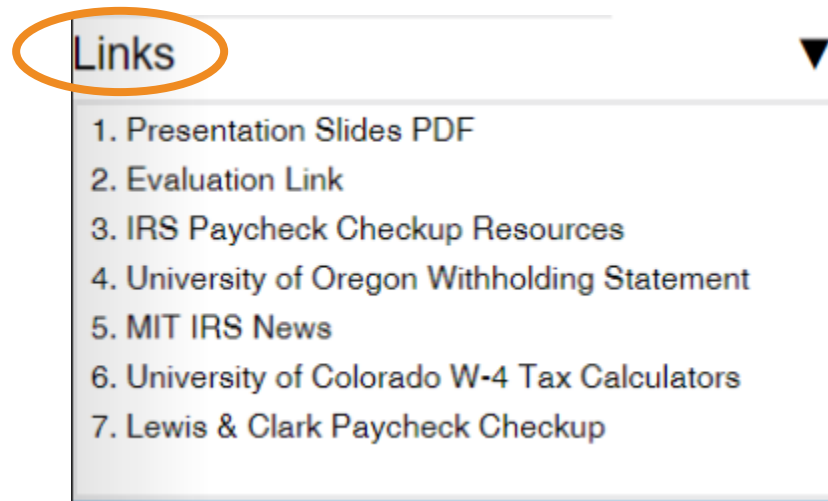
Poll Question

At which stage would you currently place your institution overall when it comes to most strategic decision-making?

- 20% - 1 A Reliant on gut, intuition, experience
- 74% - 19 B Data-informed
- 6% - 2 C Data-driven



Handouts



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What will the fall look like?

- Conversion all or part to distance/virtual learning
 - Closing or partially closing dorms
 - Limiting in person class sizes
 - Campus-wide social distancing – employees and students
 - Declining enrollment
 - All or part of the above
-

What will the fall look like?

If one or more of the five developments on the prior slide take place, which is highly likely, the current higher ed employment model will have to be modified.

HR must be prepared to explain and recommend a combination of furloughs, layoffs, salary freezes/reductions, and reductions in force consistent with the unique circumstances on campus and the culture of the organization.

Enrollment and COVID-19

Only 20% of students are confident that they will still be able to attend their first-choice school.

Nearly half reported that they were now potentially more interested in taking an online program or course.

Charitable Giving and COVID-19

Efforts to assist students – financial aid, unexpected travel expenses, and paid internships.

Institutions encouraging donations to first responders, local health care providers, other deserving constituencies.

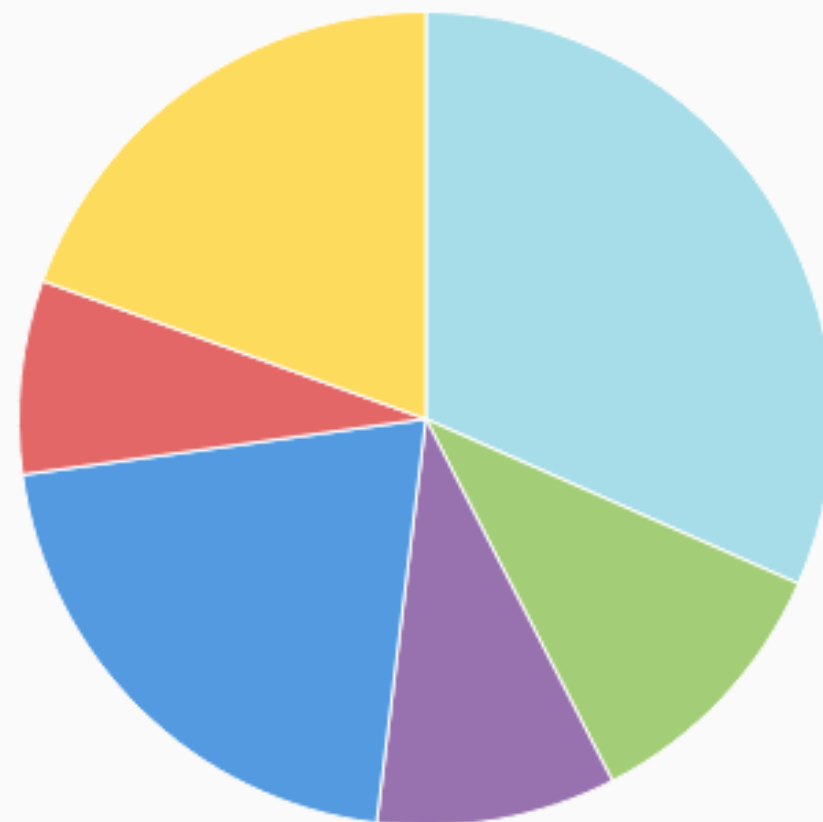
Figure 1: Major revenue categories for public universities

- Tuition
- Federal grants
- Auxiliary enterprises
- All state and local sources
- All other sources

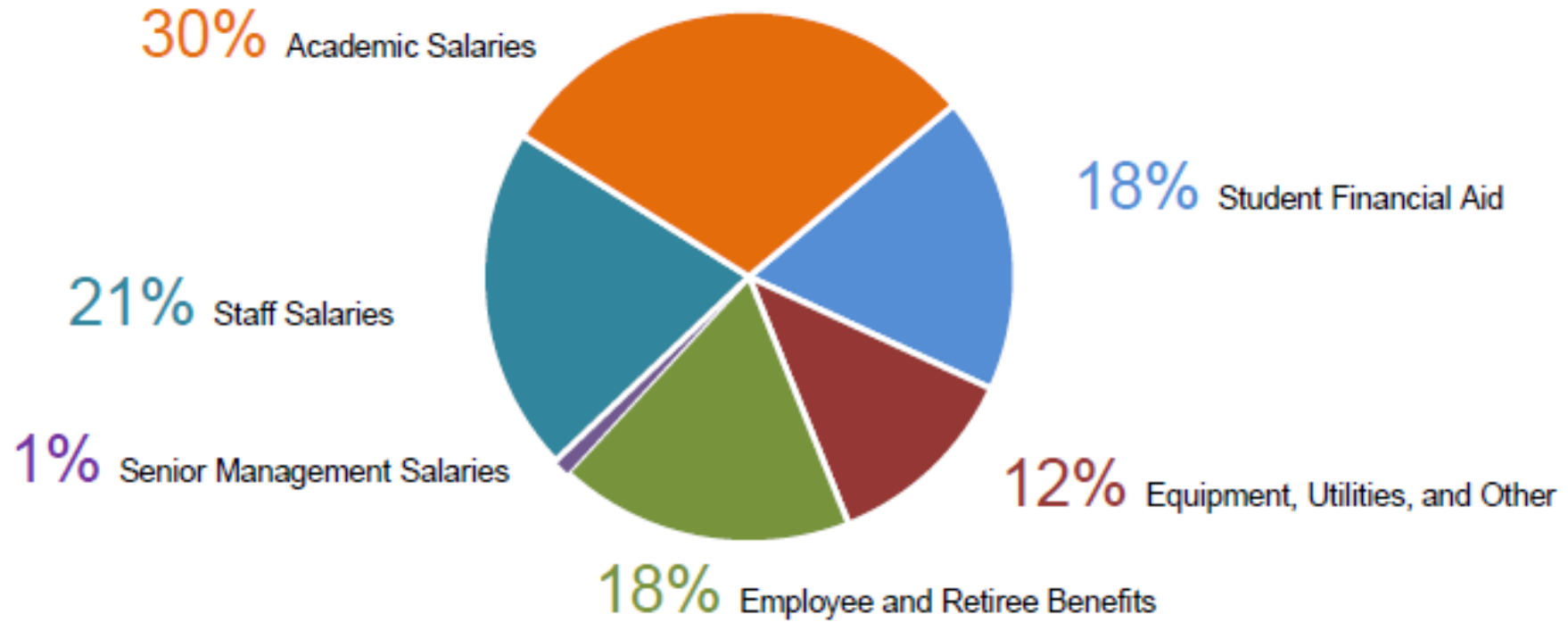


Figure 2: Major revenue categories for private universities

- Tuition
- Federal grants and appropriations
- Private gifts
- Investment
- Auxiliary enterprises
- All other sources



Payroll Costs



Poll Question #1

Has your college or university issued definitive plans on what the fall semester will look like in terms of dorms usage, and return to in room teaching or conversion all or part to virtual learning?

- a) Yes
 - b) No
-

Poll Question #2

If your answer to question 1 was no, when do you expect plans to be issued?

- a) By the end of May
 - b) By the end of June
 - c) Do not know
-

Poll Question #3

Has your college or university already announced and implemented some sort of austerity plan including either furloughs, RIF's, salary freezes, or salary reductions?

- a) Yes
 - b) No
-

Poll Question #4

If your answer to question 3 was No, do you expect to be called upon to recommend and or execute on one or more of the austerity options in the near future?

- a) Yes
 - b) No
-

**HOW CAN WE ADJUST
EFFECTIVELY?**

What's the plan?

- Create a committee
 - Identify quantifiable goal
 - Consider all options
 - Review applicable documents
 - Create communication strategy
 - Train decision makers
 - Review decisions
-

What are our options?

- Furlough
 - Salary Freeze
 - Salary Reduction
 - Reduction in Force
-

Furlough

A furlough is an institution-initiated, short-term, temporary unpaid leave of absence.

Advantages of furlough:

- Retain employees
 - Reduce cash output
 - Employee morale
 - Unemployment benefits
 - Benefit and other flexibility
-

Furlough

- Health coverage
 - Confirm with insurance carrier that coverage permits continuation of benefits during furlough
 - Payment of employee portion of premium
 - Employee payment
 - Employer payment
 - Reimbursement?
-

Furlough

- Notice to employees
 - Change at any time
 - Furlough period less than 6 months*
 - Benefits payment issues
 - Unemployment compensation benefits
 - Use of PTO
 - Require notice if no intent to return
 - Up-to-date contact information
-

Furlough

University A

- Furloughed 250 employees beginning April 17
 - Retain health coverage with University A paying employer and employee premiums
 - Tuition remission benefits, vacation time, sick leave accruals continue
 - Employee choice to use vacation days
 - No end date
-

Furlough

- Practical tips
 - No representations regarding unemployment
 - Written rationale for treating employees differently
 - Communication with employees
 - Exempt status
 - Deductions from pay
 - Unemployment compensation pushback
-

Salary Freeze

A salary freeze refers to when an institution suspends salary or wage increases for a period of time.

Advantages

- No COL increases
 - Maintain cash output
 - Flexibility
-

Salary Freeze

- Not effected
 - Salary changes upon promotion
 - Bonuses (unless specifically stated)
 - Adjustments that have already been awarded
 - Unionized employees
-

Salary Freeze

- Notice to Employees
 - Explain reason for freeze
 - Duration of freeze
 - State what the freeze does not affect
 - Reserve right to change terms
-

Salary Freeze

University B

- Salary freeze. There will be no increases to base salary effective immediately and through the end of the upcoming budget year, including merit increases ***with the exception of those related to faculty and staff promotions that have already been approved, are part of the faculty tenure and promotion process, or are contractual adjustments prescribed by collective bargaining agreements.***
-

Chat Question

Scenario 1: University XYZ

- Maintains all current operations for teaching, living, and residence operations with strict applicable social distancing and imposition of other health and safety rules
- Enrollment drops 30%

What does HR recommend regarding workforce actions?

Salary Reduction

A salary reduction refers to when an institution reduces employee salaries and wages for a period of time.

Advantages

- Reduce cash output
 - Maintain personnel
 - Easily reversed
-

Salary Reduction

- At-will staff
 - Staff with contracts
 - Faculty
 - Offer letter
 - Notice of appointment/re-appointment
 - Handbook
 - Bylaws
 - Collective bargaining agreements
 - Case law
-

Salary Reduction

- University C

- Up to \$44,449 = 13 furlough days (5%)
- \$44,500 - \$75,000 = 26 furlough days (10%)
- \$75,001 - \$150,000 = 39 furlough days (15%)
- \$150,001 - \$199,999 = 17% salary reduction
- \$200,000+ = 20% salary reduction

*Expected to bring \$93 million in savings – 40% of the expected shortfall

Salary Reduction

- University D
 - Up to \$50,000 = 3% salary reduction
 - \$50,001 + = 5% salary reduction
-

Salary Reduction

- Practical tips
 - Exempt employees
 - State law regarding notice period
 - Affect on Employee Retention Credit
-

Chat Question

Scenario 2: University QRS

- Converts teaching situation to small, in-person classes, cancels all large lectures and events
- Limits dorm capacity to 50%
- Enrollment drops 50%

What does HR recommend regarding workforce actions?

Reductions in Force

A reduction in force is a long-term layoff and break in employment. There may be a general or specific intent to reinstate.

Advantages

- Immediate cash flow relief
 - Salary
 - Benefits
-

Reductions in Force

Categories of employees

- At-will employees
 - Employees under contract
 - Unionized employees
 - Faculty
-

Reductions in Force

- Voluntary
 - Also known as “exit incentive programs”; special benefits offered to those who leave
 - Involuntary
 - Most important consideration = all employees treated equally
 - No discrimination, no retaliation, no personal animus
 - Document, document, document
-

Reductions in Force

- Selection criteria
 - Performance?
 - Special skills
 - Productivity
 - Elimination of
 - Job function
 - Department
 - Redundancy
-

Reductions in Force

- Employee slate
 - Disparate impact analysis
 - Vet selection criteria
-

Reductions in Force

- WARN Act – Triggering Events
 - **Plant closing**
 - Permanent or temporary shutdown
 - Employment loss for at least 50 employees during a 30-day period of either,
 - Single site of employment, or
 - Facilities or operating units within a single site of employment.
-

Reductions in Force

- **Mass layoff**
 - Reduction in force that
 - Is not the result of a plant closing, and
 - Results in an employment loss at a single site of employment during any 30-day period for either
 - 50 employees who comprise at least 33% of active employees; or
 - At least 500 employees.
-

Reductions in Force

- WARN Act – “Unforeseen Business Circumstances”
 - Notice may be given less than 60 days in advance
 - “circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employer’s control”
 - “commercially reasonable business judgment [] in predicting the demands of its particular market”
-

Chat Question

Scenario 3: University ABC

- Shuts down in-person teaching for the fall semester and converts entirely to online learning
- Dorms are closed
- Enrollment drops 80%

What does HR recommend regarding workforce actions?

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Thank You!

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