



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

October 7, 2009

The Application of the State Ethics Code to DOE Furloughed Teachers

1. The State Ethics Code, set forth in chapter 84 of the Hawaii Revised Statutes (“HRS”), applies to teachers and other employees and officials of the State Department of Education (“DOE”).
2. For the reasons set forth in Advisory Opinions Nos. 95 and 150 (attached), DOE teachers, including furloughed teachers, are barred by the State Ethics Code from privately teaching or tutoring their current students, or prospective students, for pay or other consideration. “Prospective students” means those DOE students who are likely in the future to become students of a DOE teacher. Specifically, HRS section 84-13(4) bars teachers, including furloughed teachers, from engaging in substantial financial transactions with anyone supervised by them, including their students, as well as the parents of their students.
3. The restrictions in the State Ethics Code set forth above do not bar a DOE teacher, employee, or a furloughed teacher from accepting employment with a private entity that offers teaching services or other services to students, so long as the teacher or employee does not take action in his or her official capacity as a DOE teacher or employee directly affecting such an entity. As a caveat, teachers who seek employment with a private entity offering teaching services or other services to students, may wish to assure themselves that such entities are in compliance with all applicable laws and standards for the rendering of such services.
4. Under the State Ethics Code, the facilities of the DOE may be used by outside organizations so long as the DOE has a policy in place that allows for fair and equal access to such facilities by all interested organizations. Of course, such a DOE policy may take into account specific considerations relating to the use of facilities, as long as such policies are reasonable and fair.

Potential DOE Administrative and Legal Issues

Aside from the application of the State Ethics Code, the State Ethics Commission cannot speak to administrative matters, legal issues, or other matters of concern under the purview of the DOE, or to which the DOE is subject.

Daniel J. Mollway
Executive Director, State Ethics Commission

Patricia Hamamoto
Superintendent, Department of Education

Attachments

OPINION NO. 95

The State Ethics Commission was asked whether a teacher who tutors one of her own students for compensation would be in a conflict of interest situation. The teacher is assigned to a public high school; the subject she tutors is in the same academic area as that in which she has been hired by the State to instruct. The teacher tutors a student, who is enrolled in one of her classes, after regular school hours.

There are three sections of chapter 84, Hawaii Revised Statutes, which are relevant to this situation. The first relates to gifts (HRS, §84-11). The teacher in this case is responsible for testing and grading this student's performance in a public school. Even though the teacher is performing extra services for the student, it may be inferred that the compensation is intended to influence and/or reward the teacher in regard to the student's grade and class standing.

Secondly, the fair treatment section of the ethics law (HRS, §84-13) requires the teacher to be scrupulously impartial. Her ability to remain objective in grading this student could become severely compromised. Also, the extra instruction the student receives, particularly in regard to preparation for a test which all the students must take, may be construed to be an unwarranted privilege or advantage. Furthermore, the teacher's very employment by the parents may be considered the use of official position to gain a contract or special treatment, such as extra income for oneself.

Finally, even though the amount of money earned by tutoring may be modest, HRS, §84-14, requires that "No employee shall acquire financial interest in business enterprises which he has reason to believe may be directly involved in official action to be taken by him." The teacher's tutoring service will be affected by such official action as examinations and grading.

For these reasons the Commission finds that a teacher may not receive compensation for tutoring one of her own students without violating at least one of these sections of the State ethics law.

We recognize that all teachers are furthermore subject to the employee code of ethics of the Department of Education. *School Code Policy #5513* advises:

No employee or official will accept compensation in any form other than that to which he is entitled from the State government when performing his duties *within the scope of the activities for which he is responsible*. (Emphasis added)

It is not the intention or responsibility of the State Ethics Commission to prescribe the duties of a teacher in the state education system. However, the job description listed in the *School Code, Administration Series #2351* requires teachers to "Take part in club work, athletics, or any other outside activity that may be developed in connection with the life of the school." Liberally construed this could include extra instruction for students having

difficulty who show a willingness to apply themselves. Paragraph (7) of the same section charges that teachers shall "Assist with the supervision of pupils before school, during intermissions and after school." Should there be vagueness here, the Department of Education should take the necessary steps toward clarification.

The Ethics Commission is responsible for issuing advisory opinions which can serve as guidelines for state employees in interpreting the State ethics law. The opinion rendered in this case concerns a teacher's receiving compensation for tutoring one of her own students. When such is the case, it does not matter when or where such tutoring takes place. It is a violation of the State ethics law.

Dated: Honolulu, Hawaii, January 28, 1971.

STATE ETHICS COMMISSION
James F. Morgan, Jr., Chairman
Vernon F.L. Char, Vice Chairman
Gwendolyn B. Bailey, Commissioner
Walters K. Eli, Commissioner
S. Don Shimazu, Commissioner

OPINION NO. 150

A supervisor in a state agency asked the Commission to clarify the application of Opinion No. 95 to three teachers who provide private summer lessons to students who will be, or have been, their students during the school year. The teachers also have given private lessons during the school year.

Before rendering an opinion, the Commission obtained statements of fact directly from the three teachers involved, as well as legal counsel of the authorized union representative of the teachers involved. The Commission found that the facts gave rise to various issues, some of which are common to each of the teachers and some of which are peculiar to a given teacher. The Commission stated the questions involved and discussed each in its turn after making preliminary findings.

Section 84-14(b), HRS, provides, "No employee shall acquire financial interest in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him." "Official action" is defined as "... a decision ... or other action ... which involves the use of discretionary authority." (Section 84-3(7), HRS.) The Commission has found in Opinion No. 95 that the grading of students, the disciplining of students, and the amount of personal attention a teacher pays to students in class constitutes such discretionary activity. The compensation paid a teacher for private lessons during the school year or during the summer, although it may not be a great deal of money, still constitutes a "financial interest" as defined by §84-3(6)(C), HRS. The Commission defines "reason to believe" as being in possession of facts which would strongly point to the probability of the occurrence rather than the mere possibility of the occurrence.

Applying the above findings to the facts available to the Commission, the Commission answered the following questions:

1. May a teacher accept employment for compensation by a student in one of his classes to provide private lessons during the school year?

It would be a violation of §84-14(b), HRS, for a teacher to accept employment for private lessons during the school year by a student in one of his classes. (See Opinions Nos. 95 and 139.) This would be true whether or not the subject taught was the same as that in the classroom. Opinion No. 145 demonstrates that the thrust of the section is to prevent a situation where the existence of a financial interest could affect discretionary activity. The language of the section is satisfied where the financial interest is in an employment by a business comprising a myriad of activities. It does not require that the financial interest be in an employment pertaining to the specific activity of the business which will be subject to official action. In this case the financial interest is in an employment to give private lessons to the student in a given subject, one of many educational activities in which the student engages. The section does not require that the educational activity be the same for which the teacher has responsibility in the classroom. The Commission stated that this finding goes beyond Opinion No. 95 to the extent that the subject taught in the private lessons need not be related to the classroom responsibility of the teacher.

2. May a teacher accept employment for compensation by a student in one of his classes to provide private lessons during the summer?

It would be a violation of §84-14(b), HRS, for a teacher to accept employment for private summer lessons by a student who was still subject to official action to be taken by him at the end of the year, or from a person he had reason to believe would be his student the following fall. Opinion No. 145 demonstrates that §84-14(b), HRS, operates prospectively from the point at which time the financial interest is acquired, with regard to when the official action may be taken. The circumstances here are such that the teacher is acquiring a financial interest when there is strong probability that it will be directly involved in official action to be taken by him. This is proscribed by §84-14(b), HRS.

The holdings to this point would apply whether or not grades or advanced class standing resulted from the private lessons given.

3. When may a teacher accept employment to provide private lessons?

A teacher could accept former students as pupils for private lessons during the summer without violation of §84-14(b), HRS. This, of course, means that acceptance of the employment would have to occur after the teacher no longer could take "official action" with regard to the pupil. A teacher could also accept employment for private lessons during the school year or during the summer from students at other schools. The element of "official action" is missing. There would, likewise, be no violation of that section where a teacher worked with his students after school, there being no compensation paid therefor, because the element of "financial interest" is lacking.

In addition, a teacher employed by the Department of Education to conduct summer lessons for persons, including school year pupils, would not be in violation of §84-14(b), HRS, as long as his pay did not depend upon the number of students and the teacher was not involved in the enrollment and acceptance process.

4. Does the fact that only a few qualified teachers of a subject are present in a given area excuse violations of §84-14(b) in the circumstances described above?

The existence of only a few qualified teachers of the subject in the area does not excuse violations of §84-14(b), HRS. (See Opinion No. 143 wherein the Commission found a violation of that section when the individual requesting the advisory opinion was one of few qualified teachers of the subject in the area in which he was located.)

5. What state facilities and equipment may be used by the teachers in providing private lessons, if any?

The Commission noted that none of the teachers were in violation of §84-13, HRS, which prohibits the use of an employee's official position to gain unwarranted privileges or treatment, such as the use of state time, facilities or equipment in furtherance of private concerns. State facilities and equipment may be used by the teachers in teaching private lessons when the facilities and equipment are made available to the teacher in accordance with the Department of Education procedures which makes them available to the public at large. (See Opinion No. 139.)

The Commission emphasized that its opinion in this case was based upon facts presented to it. Specifically, the discussion of violation pertained only to that situation where a teacher accepts employment for private lessons during the school year or during the summer from persons

who are students of his during the school year, and certain other persons whom he has reason to believe will be students of his during the forthcoming school year.

The Commission expressed its thanks to the party requesting the opinion for his concern for the ethical considerations relating to matters within his province.

Dated: Honolulu, Hawaii, November 16, 1972.

STATE ETHICS COMMISSION
Walters K. Eli, Vice Chairman
Gwendolyn B. Bailey, Commissioner
Audrey P. Bliss, Commissioner

Note: Commissioner Fred S. Ida was excused from the meeting at which this opinion was considered.

DISSENTING OPINION OF COMMISSIONER VERNON F. L. CHAR

I would find no violation of §84-14(b), HRS, under circumstances where a teacher provides summer tutoring to former regular students, even though they may be potential students for the coming year, where that employment was not accepted or solicited during the period when the teacher had authority over the student in his class; and further where the fee is of a nominal amount in the area of \$20 or \$25. This finding would be based upon my interpretation of §84-14(b), HRS, which I feel requires something more than a *de minimus* financial interest. Further, the official action must be concurrently exercised at the time the financial interest arises in order to be a violation.



Please email additional questions to:
doe_info@notes.k12.hi.us

FURLOUGHS
Frequently Asked Questions
(not applicable to charter schools)
as of October 5, 2009

NOTE: For specific contract questions, please contact your union.

GENERAL

Q 1. What is a furlough?

A 1. A furlough is the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons. Furloughs result in a reduction in workdays, which in turn results in a reduction in one's salary. Furlough days are to be considered similarly to any other unscheduled workday (i.e. Saturday and Sunday).

Q 2. Will a furlough change my employee status?

A 2. A furlough does not involve a change to one's salary range, pay grade or employment status.

Q 3. How many furlough days will teachers need to take under the agreement with HSTA?

A 3. Ten-month and 12-month teachers will be furloughed 17 and 21 days, respectively.

Q 4. How many furlough days will the superintendent, deputy superintendent, assistant superintendents, and complex area superintendents take?

A 4. The superintendent's leadership team will be furloughed for 21 days.

Q 5. How will furlough days for HSTA affect DOE casual hourly workers?

A 5. The following casual hourly workers will not report to work on furlough days: Part-time teachers (PTTs), Para-Professional Tutors (PPTs), Meal Count Assistants, Student Helpers, Classroom Cleaners, Adult Supervisors, A+ workers, Peer Tutors, and Work Study Enrollees. (See Unemployment Q1.)

Q 6. Will furlough days for HSTA affect 89-day hires in UPW or HGEA positions?

A 6. At this time, furlough days will not affect 89-day hires in UPW or HGEA positions.

Q 7. Can I substitute vacation or sick days for furlough days?

A 7. No. Employees may not substitute any paid leave or compensatory time off for a designated furlough day. Furlough days may not be taken in partial-day increments. Teachers should withdraw their requests for vacation/personal leave on furlough days.

Q 8. How will furloughs affect sick and vacation accruals?

A 8. Sick and vacation accruals will not be affected. Employees will continue to accrue sick and vacation at their normal rate.

Q 9. When will teachers and the superintendent's leadership team begin to see an adjustment in their paychecks?

A 9. Adjustments to pay will be reflected starting with the November 20, 2009 paycheck.

Q 10. Can furloughed employees work more than 32 hours during a furlough week?

A 10. Full-time exempt and non-exempt employees should not be permitted to work more than 32 hours during a furlough week. Duties and work responsibilities may need to be re-prioritized during these time periods. However, on few occasions, *exceptions to work beyond the 32 hours may be granted by the Superintendent on a case-by-case basis and must be approved prior to the requested work date. ***Exception procedures will be sent to principals and administrators.**

BENEFITS

Q 1. What happens to my health benefits if I am furloughed?

A 1. Your eligibility for health benefits through the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) will continue, as long as your premium payments are made on time.

If you do not have sufficient monthly earnings to pay for your insurance premiums, the EUTF will send you a Notice of Premium Shortage with instructions on how to reinstate your health benefits. For additional information, please contact EUTF at 586-7390 (Oahu) or 1-800-295-0089 (Neighbor Islands); or visit website: eutf.hawaii.gov.

For information regarding health benefits through the Hawaii State Teachers Association VEBA Trust, please contact the HSTA VEBA Trust office at 591-2823 (Oahu) or 1-800-637-4926 (Neighbor Islands).

Q 2. May I change health plans in order to reduce my monthly deductions?

A 2. Employees may make changes to their health plans only during the annual Open Enrollment Period.

Q 3. May I make changes to my retirement and benefit plan deductions if I'm furloughed in order to reduce my monthly deductions? (e.g., ERS - NO, deferred compensation - YES, TSA - YES, PCP - NO.)

A 3. It depends. For information, contact Chasity Dezzani, DOE Personnel Management Specialist, Employee Benefits Unit at 586-3245 or by email at Employee_Benefits@notes.k12.hi.us.

Q 4. What happens to my Employees' Retirement System (ERS) service credits if I am furloughed?

A 4. The furloughs will not affect your ERS service credits as long as you work at least 15 or more calendar days (14 days in February) per month, which is equivalent to a full month of service credit for that month.

For additional information, please visit the ERS website at: www4.hawaii.gov/ers or contact ERS at 586-1735. Neighbor Islands may call toll free to Oahu for assistance.

Hawaii: 974-4000 ext. 61736

Kauai: 274-3141 ext. 61736

Maui: 984-2400 ext. 61736

Molokai/Lanai: 1-800-468-4644 ext. 61736

Q 5. Will furloughs affect my “high three” (three highest average salaried years) for Employees’ Retirement System (ERS) benefits?

A 5. Yes. Furloughs will result in a pay reduction, thus your annual average salary will be reduced. However, the Employees’ Retirement System will take your three highest average salaried years for computing retiring benefits.

CAMPUS VISITS

Q 1. On a furlough day, can a teacher visit her/his classroom to set it up?

A 1. We recognize historically teachers have visited their classrooms on non-work days to get an early start on lessons and to fix up their rooms. By being on campus during a furlough day, teachers may attract students to school—this type of situation not only raises safety concerns but also other liability issues. We are asking teachers for their cooperation in honoring the HSTA contract.

CLASSIFICATION/COMPENSATION

Q 1. While on furlough, can I perform duties elsewhere (e.g. telecommuting) for the DOE during my regular work hours?

A 1. No. On a furlough day, employees on furlough are not permitted to work at their regular job or any other job with the DOE. “Work” includes checking email, voicemail and using any electronic devices to check status of open items and responding to same.

Q 2. Can I volunteer to work while on furlough (or any other day) for the DOE?

A 2. No. Employees on furlough are not permitted to work at their regular job. Also, furloughed employees may not volunteer to work at their regular job or any other job with the DOE.

DIFFERENTIALS

Q 1. How will the furlough affect the National Board Certification differential teachers may be currently receiving?

A 1. Fixed-dollar amount differentials (such as National Board Certification, department chair, grade-level chair differentials, etc.) will remain the same, without reduction, so the gross differential pay will remain unchanged. Pay reductions due to furloughs will be applied to the teacher's base pay.

EMPLOYEE SUPPORT

Q 1. Are there supports available for employees to help them cope with the emotional and financial stress of the furloughs?

A 1. We suggest employees dial **211** for assistance, Monday – Friday from 6:00 a.m. – 9:00 p.m. Or visit www.auw211.org to search the **211** online database. Provided by Aloha United Way, this free service is confidential and toll-free statewide. Multilingual assistance is available.

The Hawaii State Board of Education and Department of Education have partnered with Aloha United Way to provide students, employees, and families with information and referrals on everything from crisis intervention to job training. During these tough economic times, **211** provides hope.

HALF-TIME TEACHERS

Q 1. How do the furlough days work for a half-time teacher (specifically, if a teacher does not work on Fridays)?

A 1. The teacher and the principal will need to work together to reduce weekly hours by 3.5 hours. Weekly hours will be no more than 14 hours per week or 28 hours over 2 weeks. Individual work schedules are to be worked out with principal.

JOB SHARE

Q 1. How are teachers on job share impacted?

A 1. Schedules will have to be adjusted, and worked out with principal at school level.

LEAVES

Q 1. If an employee needs to take sick, professional, or personal leave on a furlough day what do they do?

A 1. No action is necessary. If the leave falls on a furlough day, no paperwork needs to be completed.

Q 2. Will furlough days affect leave while teacher is out on maternity leave?

A 2. Teachers on maternity leave will not be charged sick leave on furlough days. Any sick leave will only cover absences for work days excluding the furlough days. Furlough days are considered non-work, non-paid days.

NON-FURLOUGHED EMPLOYEES/WORK ASSIGNMENTS

Q 1. Are there any guidelines for administrators regarding work assignments for employees WHO ARE NOT FURLOUGHED on furlough days?

A 1. Principals have the authority to assign an employee work as long as the work is within the scope of the employee's job description.

Q 2. What happens if HGEA, UPW don't settle by October 23?

A 2. Nothing impacts the Unit 5 Agreement regardless of what occurs from HGEA and UPW.

PARKING

Q 1. What will happen to my State parking if I do not have enough in my paycheck to cover for parking deductions?

A 1. Your parking assignment will continue as long as you can make the payment on a timely basis. DAGS Automotive Management Division/Parking Control Branch will accept out of pocket payments. Arrangements can be made by calling (808) 586-0344. Parking fee will not be pro-rated for days not in use due to furlough.

PAYROLL – PAPER PAYCHECKS

Q 1. Many employees hired prior to 1998 still receive a paper paycheck rather than utilizing direct deposit. Will their paychecks arrive in a timely manner at schools and offices?

A 1. Employees are encouraged to sign up for direct deposit. There may be a 24 to 48 hour delay for paper paychecks to arrive at schools/offices as courier services are being reduced. Please note that negotiations with HGEA (Hawaii Government Employees Association) and UPW (United Public Workers) are still ongoing.

SABBATICAL LEAVE

Q 1. Will teachers on sabbatical leave be affected by the furlough?

A 1. Yes. The pay for teachers on sabbatical leave will be reduced by the furlough.

SALARY/PAYROLL DEDUCTIONS

Q 1. Would a furlough affect my salary?

A 1. Your salary range/base pay will remain the same. However, you would not be paid for the furlough days as they are non-work days. Reduced work days will result in a lower gross salary adjusted to reflect the furlough.

Q 2. Would furloughs impact automatic payment deductions?

A 2. It could. If you pay bills or loans through automatic pay deduction from your checking account each month, you should review your pay deductions against your adjusted income (due to furlough adjustments to pay) to ensure that sufficient funds are available to cover any deductions.

UNEMPLOYMENT INSURANCE

Q 1. Are employees eligible to collect unemployment insurance for the furlough days?

A 1. An employee must be either totally unemployed or working less than their normal hours and earning less than what their weekly benefit amount would be on a continuous basis. For answers, contact:

Dept. of Labor & Industrial Relations

830 Punchbowl St.

Honolulu, HI 96813

<http://hawaii.gov/labor>

Email: dlir.director@hawaii.gov

Business Hours: Mon. - Fri., 7:45 a.m. - 4:30 p.m. (except holidays)

http://hawaii.gov/labor/ui/pdf/EE_FAQ_2009_rev_4-14-09.pdf

WORKERS' COMPENSATION

Q 1. Will the furlough affect my workers' compensation?

A 1. No.

NOTE: *The aforementioned is intended to briefly address important issues that may be of concern to you in the event of a furlough. This is not a legal document or contract, and may be subject to change.*



Please email additional questions to:
doe_info@notes.k12.hi.us

SCHOOL PROGRAMS AND OPERATIONS
Frequently Asked Questions
(not applicable to charter schools)
as of October 5, 2009

GENERAL

Q 1. If teachers are on furlough, will classes be offered?

A 1. No. Classes will be cancelled.

Q 2. On furlough days, will any meal service or student transportation be offered to students?

A 2. No.

ACCREDITATION

Q 1. Is school accreditation impacted by instructional days?

A 1. No. There is no specific number of instructional days required for accreditation.

AFTERSCHOOL PROGRAMS

Q 1. Will afterschool tutoring or enrichment programs run by the school be offered on furlough days?

A 1. No.

Q 2. Will the DOE A+ Program be available on furlough days?

A 2. No. Private providers may apply for Use of Facilities and run their own programs at parent expense on furlough days. Principals will continue to approve/disapprove Use of Facilities requests for their school.

Q 3. What will happen with the monthly DOE A+ fee?

A 3. The monthly DOE A+ fee will be adjusted based on the furlough days.

ATHLETICS

Q 1. Will athletic events be conducted on designated furlough days?

A 1. Yes. Athletic events will continue as scheduled. Athletic events may not be rescheduled prior to 3:00 p.m. on furlough days.

Q 2. Will athletic teams be allowed to practice/play on furlough days?

A 2. Yes. Teams may practice/play on furlough days after 3:00 p.m. only.

Q 3. Will teacher coaches be able to supervise/coach practices and games?

A 3. Yes.

Q 4. Will preseason and statewide tournaments need to be rescheduled?

A 4. This decision/action is ONLY for Pre-season and State Tournaments for teacher coaches for school year 2009-2010.

- Coaches will be allowed to travel/coach before 3:00 p.m. on furlough days for tournaments (pre-season and/or state finals), if the start times for these games are scheduled prior to 3:00 p.m.
- Coaches are not allowed to reschedule practice times or game starting times earlier than 3:00 p.m. on furlough days.

Q 5. Can regularly scheduled early morning sports practices continue on furlough days?

A 5. Yes. Morning practices for sports (e.g., swimming, cross country, canoe paddling) may proceed and must be completed by 7:45 a.m.

DRIVER'S EDUCATION

Q 1. Can driver's education for students continue on furlough days?

A 1. Yes. Driver's education may continue on furlough days after 3:00 p.m.

HOMEWORK

Q 1. Will students be given homework for furlough days?

A 1. If teachers normally send home homework on "Fridays," that homework may be sent home on "Thursday."

INSTRUCTIONAL DAYS

Q 1. Is there a federal or state law mandating the number of instructional days in a school year?

A 1. No. The number of instructional days is determined by the HSTA agreement.

MEAL SERVICE

Q 1. On furlough days, will any meal service be offered to students?

A 1. No.

Q 2. Will the DOE lose federal funds for the school meal service program?

A 2. No

NCLB SUPPLEMENTAL EDUCATIONAL SERVICES

Q 1. Are afterschool supplemental educational services (SES) programs that are run by private providers able to operate on furlough days?

A 1. Pending ongoing negotiations with HGEA (Hawaii Government Employees Association) and UPW (United Public Workers), the DOE is recommending that schools reschedule SES private provider programs on furlough days. If rescheduling is not possible, SES private providers may continue to provide services on furlough Fridays after the "normal" school end time for students.

PROFESSIONAL DEVELOPMENT

Q 1. How will schools address professional development or conferences on furlough days?

- A 1. Out-of-state and in-state trips by employees for professional development or to attend mandatory conferences on furlough days should be:
- Rescheduled.
 - If the activity cannot be rescheduled, then professional development or conferences shall be cancelled or evaluated and recommended to proceed by administrator or principal.
 - Furloughed DOE employees who participate in out-of-state, statewide or district-wide professional development workshops to attend mandatory conferences may be doing so as part of their job responsibilities. *Participation exceptions for furloughed DOE employees may be granted by the superintendent on a case-by-case basis and must be approved prior to the activity date. ***Exception procedures will be sent to principals and administrators.**

Q 2. Will DOE workshops for teachers be held on a furlough day?

- A 2. No. DOE Workshops scheduled on furlough days will be cancelled or rescheduled.

SCHOOL ACTIVITIES (WEEKENDS/HOLIDAYS)

Q 1. Will voluntary school activities on Saturdays, Sundays, or school holidays still go on?

- A 1. Yes.

SCHOOL BUDGET

Q 1. Will there be any adjustment to the lumpsum buy/sell prices for teacher positions due to the furloughs?

- A 1. No.

SCHOOL CALENDAR

Q 1. Will the last day of each semester – Thursday, December 17, 2009 and Wednesday, May 26, 2009- be a full instructional day for students?

- A 1. Yes.

STUDENT ACTIVITIES and TRIPS

Q 1. Can schools still conduct afterschool student activities on furlough days?

- A 1a. Student activities (e.g., dances, proms, plays, conferences) planned by schools off-campus or on-campus after 3:00 p.m. on furlough days should be:
- Rescheduled to Thursdays (Thursday is the new “Friday”) or Saturdays or another day, if possible.
 - If the activity cannot be rescheduled, then the event shall be cancelled or approved by principal to proceed.
 - Furloughed DOE employees who volunteer to participate in the activity will be doing so during non-work hours.
 - Volunteer parents and guardians may continue to chaperone authorized student activities.

- A 1b. Statewide or district-wide student activities (e.g., conferences, competitions) scheduled involving students and DOE employees on furlough days should be:
- Rescheduled to Thursdays (Thursday is the new “Friday”) or Saturdays or another day, if possible.
 - If the activity cannot be rescheduled, then the event shall be cancelled or evaluated and recommended to proceed by administrator.
 - Furloughed DOE employees who participate in statewide or district-wide student activities may be doing as part of their job responsibilities. *Participation exceptions for furloughed DOE employees may be granted by the superintendent on a case-by-case basis and must be approved prior to the activity date.
 - Volunteer parents and guardians may continue to chaperone authorized student activities.
- A 1c. Out-of-state and in-state trips involving students and DOE employees on furlough days should be:
- Rescheduled.
 - If the activity cannot be rescheduled, then the trip shall be cancelled or evaluated and recommended to proceed by administrator or principal.
 - Furloughed DOE employees who participate in out-of state, statewide or district-wide student activities may be doing so as part of their job responsibilities. *Participation exceptions for furloughed DOE employees may be granted by the superintendent on a case-by-case basis and must be approved prior to the activity date.
 - Volunteer parents and guardians may continue to chaperone authorized student activities.

***Exception procedures will be sent to principals and administrators.**

STUDENT SUPPORT SERVICES (SPED/SBBH)

Complex area superintendents and district educational specialists for special education and school-based behavioral health are working with schools to review IEP and 504 modification plans. Parents are asked to work closely with their child’s school during this process. Additional information will be provided.

School-based Behavioral Health

Q 1. My child has a 504 modification plan. What’s going to happen on furlough days?

A 1. 504 accommodations, modifications and related services are provided while a child is in school. Services that would have been provided on a furlough day may be rescheduled.

Q 2. My child receives school-based behavioral health (SBBH) related services after school. Will services continue?

A 2. Services that would have been provided on a furlough day may be rescheduled. Related service providers will also be asked to review and adjust their weekly schedule to ensure the provision of SBBH related services.

Special Education

Q 1. Should Individualized Education Program (IEP) plans be reviewed to measure the educational impact of furlough days on the student?

A 1. Yes. The IEP team for each student should consider the reduction in instructional days and the effect (if any) the reduction will have on the provision of a free appropriate public education (FAPE).

Q 2. What about related services that are scheduled on furlough days on a school campus?

A 2. Related service providers will be asked to review and adjust their weekly schedule to ensure the provision of IEP indicated related services. Services that would have been provided on a furlough day may be rescheduled.

Q 3. Will services be provided to students placed in off-campus placements on DOE furlough days?

A 3. Services that would have been provided on a furlough day will be reviewed and may be rescheduled.

STUDENT TESTING

Q 1. The Advanced Placement (AP) test for high school students is scheduled on a furlough day. Will students be able to take the test on Friday, May 7, 2010?

A 1. Yes. The AP test will proceed as scheduled. The DOE is working on a support plan so students can take the nationally scheduled AP test on Friday, May 7, 2010.

Q 2. Will there be any adjustments made to the scheduling of the Hawaii State Assessment (HSA) because of the furloughs?

A 2. No. The 2009-2010 school calendar does not include the extra intercession week at winter and spring break in previous school calendars. The new calendar increased the number of instructional days that occur prior to HSA testing. With the furlough, there will only be two (2) less instructional days prior to the scheduled HSA testing period. Therefore, it has been determined that no adjustments are necessary.

STUDENT TRANSPORTATION

Q 1. Will student transportation fees be adjusted for furlough days?

A 1. Yes. The DOE Student Transportation section is working on a furlough adjustment plan. The quarterly fee will be reduced. Fee adjustment information for those who have purchased annual passes will be sent to schools by December 2009.

SUMMER SCHOOL

Q 1. Will furlough days affect summer school?

A 1. No.

WAIVER DAYS/PLANNING COLLABORATION DAYS

Q 1. Can schools use Waiver Days (WD) and/or Planning/Collaboration (P/C) Days in place of or to reduce furlough days?

A 1. No.

Q 2. On his or her own, can the school principal make the decision to reschedule a WD or P/C Day?

A 2. No. Schools must follow the current process to change a WD or P/C Day by consulting with the School Community Council (SCC), faculty, and staff, and the SCC office.

Q 3. Can a principal or school decide to cancel a WD or P/C Day?

A 3. No. Schools must submit a request to the state Board of Education for a waiver to cancel a WD or P/C day in consultation with the Union.

Q 4. What choices do schools have in regards to Waiver Days or Planning/Collaboration Days?

A 4. Waiver Days or Planning/Collaboration Days scheduled on furlough days shall be:

- Rescheduled (including any speakers or workshops).
- Waived. Schools must submit a request to the state Board of Education for a waiver to cancel a WD or P/C day in consultation with the Union.

Q 5. What process should schools follow to increase instructional minutes on school days that have traditionally ended earlier (e.g., move Friday schedule to Wednesday)?

A 5. Any changes to the 2009-2010 bell schedule as a result of furlough Fridays that will eliminate administration meeting time or increase instructional minutes needs to follow the waiver process as outlined in the HSTA contract.



HAWAII STATE STUDENT COUNCIL

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Senate Committee on Education Testimony
October 7, 2009

Chairman Sakamoto and members of the Senate Education Committee, aloha and thank you for this opportunity to testify on behalf of the Hawaii State Student Council. My name is Mark Aoki, I represent the Honolulu district and I am currently a junior at Roosevelt. My testimony today is against the seventeen furlough days.

I wish not to discuss the already known test scores that place Hawaii at the bottom of the nation in student achievement, but depict an image of how this translates. If we allowed a group of 100 to represent the student body, 38 would not be able read and comprehend at grade level, 57 would be unable to compute grade level mathematics, and 16 would fail to earn a diploma (DOE Superintendent's Report 2008).

If anything this image demonstrates the importance of a high quality education not only for the betterment of the individual student, but the future of Hawaii. How we teach students now, will be mirrored in the future.

The now shortened school year, brought by the seventeen furlough days, will bring direct effects not only to the next two years, but future education in this state. Studies have directly correlated the interconnection of instruction time and performance. Massachusetts schools involved in the states expanded learning time initiative have demonstrated the effect of this correlation as student scores rise in both English and Math.

We face unprecedented economic difficulty in the coming years. As state cuts are being made in every agency and every department—it burdens the difficulty of deciding how to facilitate this recession and remain a strong and stable state—the decision for furloughs is a failure in both aspects.

A strong and stable Hawaii is one in which we look not only at the present but the future. Furloughs are a statement of one sidedness, a look at only the present.

Education cannot remain in the status quo. It needs the change we so fervently spoke of, it needs the hope that was inspired in us by this change. Our hopes of change have been now temporarily put on hold due to furloughs, however, as students, as administrators, as representatives, as citizens we must make sure that this status quo is not maintained.

Despite the gloomy outlook, I see this recession as an once in a generation opportunity to step back and reevaluate our course into the future. The state of Hawaii must first; stabilize the Department of Education's operation budget and allow it to fulfill its visions for Hawaii students and second; remove itself from the status quo and enact reforms necessary to provide an education capable of allowing our keiki to exceeded in the globalized twenty-first century.

My warmest mahalo for this opportunity to testify against the furlough days.