
Communicate personally with your employees

Let them know: Because of these unforeseen circumstances and with thoughtful discussions about the best course of action for our team, we will close effective (*date*).

Or, You will be laid off for a temporary time.

Or, You will be laid off effective (*date*).

If you plan to reopen, let them know that this may change depending on public health recommendations and the status of the virus.

Create a plan to stay in touch with your workforce via email, Twitter, Facebook, etc. Give them a point of contact of a company official for further information.

Explain what type of separation they are under

LAYOFF: This type is a temporary or permanent separation from payroll.

An employee is laid off because there is not enough work to perform. The employer, however, believes that this condition is temporary and intends to recall the person. Employees are typically able to collect unemployment benefits while on an unpaid layoff and employers can allow employees to maintain benefit coverage for a defined period of time as an incentive to remain available for recall.

FURLOUGH: This type is considered to be an alternative to layoff.

A maximum amount of time is one year. An employer typically will use a furlough to retain staff that they can't afford but don't want to lay off. An employer may require all employees to go on furlough, or it may exclude some employees who provide essential services. Generally, the theory is to have the majority of employees share some hardship as opposed to a few employees losing their jobs completely. It is a mandatory suspension from work without pay and it can be as brief or as long as the employer wants.

REDUCTION IN FORCE: This type occurs when a position is eliminated without the intention of replacing it and involves a permanent cut in headcount.

Discuss their health benefits

Each employer will need examine the terms of each benefit under the group health plan. Eligibility for the plan will be defined within those terms. A Reduction in Force, Layoff, and even a reduction in hours are all events which, coupled with a loss of coverage, will be a COBRA Qualifying Event.

Furloughed employees typically retain their benefits. Most employees retain access to any health and life insurance during the furlough. However, unemployment benefits will vary by state, and there may also be waiting time periods in place before benefits are provided.

Employers have a total of 44 days from the Qualifying Event date to mail a COBRA Election Notice.

Discuss their employment benefits

A furloughed employee retains their employment rights. From a compliance point of view, the safest way to furlough exempt employees is to require them to take unpaid time off in full-week increments.

No Work Rule

A furloughed employee retains their employment rights. From a compliance point of view, the safest way to furlough exempt employees is to require them to take unpaid time off in full-week increments.

Furloughed employees are absolutely banned from doing any work on behalf of the employer whatsoever. This is a zero-tolerance rule. An employee cannot take a phone call or answer emails. Five minutes is enough to break the No Work Rule. If a salaried employee does any work while on furlough, the employer must pay them the equivalent of their salary for the entire day. If an hourly employee works while on furlough the employer must pay them for the time worked. As a result, furloughed employees typically have their access to work accounts and devices revoked. This is to prevent well-meaning employees from breaking the law and triggering a payment obligation.

Many employees consider taking a temporary job during a furlough. They should check carefully for rules against outside employment and/or second jobs, as their employer is free to enforce these policies even during a furlough.