

March 17, 2020

As companies adjust and plan for potential business disruption, we have listed information below to questions regarding employee staffing.

Temporarily Closing or Need to Reduce Staff—Furlough vs. Layoff

If your business is temporarily closing or needs to reduce hours for employees, consider a “furlough” instead of a “layoff”. A furlough is defined as a temporary layoff, an involuntary leave or another modification of normal working hours without pay for a specified duration. Businesses use furloughs for a variety of reasons, such as plant shutdowns, economic challenges or when a broad reorganization makes it unclear which employees will be retained.

Information regarding a furlough and layoff include;

- A furlough implies there may be a place for the employee when business returns to normal. It is best to keep furloughed employees up to date on a weekly basis on when they may be recalled to work. Employees are usually given an expected time frame on when they may return to work, but it is not required. A layoff is a termination of employment with no guarantee of being called back to work.
- If an employee is furloughed, a “no work” rule should be implemented. If an employee answers one email or does any work while furloughed, the employee will need to be paid. It is a best practice to discontinue all access to the company systems while the employee is furloughed.
- Also, during a furlough, employee benefits usually continue, although a process may need to be set up on how to collect premiums if the leave is unpaid. In a layoff, employees generally have no rights of recall and no expectation of the job returning so employee benefits will terminate, and COBRA or State Continuation benefits would be offered.
- A status code for “Furloughed” should be set up in your Payroll/HRIS system so employees in this status can be easily tracked. In addition, a status code of “Involuntary Termination” should be set up in case a layoff is necessary.
- If an employee is furloughed, employees can receive unemployment if furloughed or have a reduction in hours. This would apply to a layoff situation as well.

Virtual Human Resource Assistance Project Based Temporary Coverage

info@humanresourcesolutionsllc.com

P.O. Box 822462, Dallas, TX 75382;

cell: (469) 223-8268; (214) 274-3818

humanresourcesolutionsllc.com

Reduction in Hours/Pay

Exempt Employees

A salaried exempt employee receives a pre-determined set amount of pay each week. If an exempt employee works anytime during the week, they must be paid for the entire week. Exempt employees do not need to be paid if they don't work any time during the week.

Pay for exempt employees can be reduced, but it may involve changing their status to non-exempt and paying them on an hourly basis. Unless the reduction in pay or hours will be on a long-term basis, changing the employee to a non-exempt status is required. **An exempt employee's weekly wage cannot fall below \$684.00 a week, after deductions.**

Non-Exempt

If a non-exempt employee performs any work during the furlough, they should receive pay for time worked. An employee's rate can be reduced if the rate does not go below the minimum wage, currently **\$7.25 an hour.**

Unemployment Texas Workforce Commission Guidelines

To be eligible for benefits, an employee must be either unemployed or working reduced hours through no fault of their own. Examples include layoff, reduction in hours or wages not related to misconduct, being fired for reasons other than misconduct, or quitting with good cause related to work.

Laid Off

Layoffs are due to lack of work, not your work performance, so you may be eligible for benefits. For example, the employer has no more work available, has eliminated your position, or has closed the business.

Working Reduced Hours

If you are working but your employer reduced your hours, you may be eligible for benefits. Your reduction in hours must not be the result of a disciplinary action or due to your request.

For companies that have offices in states other than Texas, the Unemployment Policies for that state should be reviewed.



Misc.

Companies can require employees to use any paid time off such as vacation or PTO, unless stated otherwise in your policy, unless the absence falls under the new Families First Coronavirus Response Act.

We hope everyone stays healthy and please reach out to us for any questions or concerns.

Sources; Unemployment Workforce Commission; Department of Labor Fact Sheet #70.

The above information should not be construed as legal advice.