



Furlough vs Layoffs Reference Guide

A furlough is a temporary, leave of absence. They are usually shorter in. Employees are not paid, but they are still technically employed. When the business reopens, furloughed employees will be welcomed back and become an active employee again. A furlough could be seen as favorable to retain talent and reduce the cost of separation (e.g., payout of vacation balance payout) or future hiring and training.

A layoff is a separation of employment for an indefinite or permanent period of time.

Pay Requirements During Furlough

Employers must be cautious of pay-related matters during a furlough. Non-exempt employees are only paid for their hours worked. Therefore, when furloughed or not working, they do not receive pay.

Per the Fair Labor Standards Act (FLSA), exempt employees must be paid their full salaries for any workweek in which any work is performed. Therefore, an employer seeking to furlough an **exempt** employee should be careful. Some things to keep in mind

- Have exempt employees take unpaid time off in full-week increments and not perform any work during the week. This includes working from home, reading/responding to emails, or calls.
- If any work is performed during a workweek, the exempt employee must be paid their full salary.
- Days not-worked can be supplemented with any available paid time off such as vacation time.

Reduced Hours

You may want to have employees work fewer hours each week and pay them less. Reduced work hours and schedules can be applied for non-exempt employees. Keep in mind, the FLSA does not allow employers to reduce exempt employees' pay for working fewer hours. Any adjustment in exempt employees' salaries must be permanent in nature as short-term changes can jeopardize the employees' FLSA exempt status.

Voluntary Time Off

Per the FLSA, exempt employees may take voluntary time off without pay. However, this unpaid time off must be completely voluntary and cannot be caused by employer business conditions or be the result of pressure or request by the employer to take time off.

Benefits

During a layoff, employees are separated from employment and would be eligible to continue their benefits through COBRA. Employers could choose to subsidize COBRA benefit payments for impacted employees.

Employers may treat furloughed employees to be on a “leave of absence” status and maintain benefits coverage while making employer contributions and requiring employee premium payments, or the employer could utilize COBRA for the furloughed time period. It is recommended that employers consult with their HR advisor to determine the most appropriate benefits continuation option for their business.

Unemployment Insurance

Many states’ unemployment insurance also applies to significantly reduced work hours, temporary furloughs, and layoffs. Eligibility for unemployment insurance is determined by each state.

Important Differences

	Quit	Fired	Laid Off	Furloughed
Can look for a new job	✓	✓	✓	✓
Eligible for unemployment benefits			✓	✓
Can keep health insurance and benefits				✓
Can work for another employer	✓	✓	✓	✓
Can expect your employer will rehire you				✓

Note: Gray indicates that the specifics are determined by the employer. This shows what is typical, but there can be exceptions.

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