

Furloughs vs Layoffs during COVID-19 Pandemic

	Furloughs	Temporary Layoffs	Permanent Layoff/Termination
Definitions	A temporary unpaid leave of absence, employees retain their benefits and jobs. When the furlough period ends, employees go back to their same jobs with same pay and benefits. Employer may specify if PTO may or may not be used during the leave.	Employment is ended and treated as a separation or termination. There is an expectation for rehire or reinstatement after COVID-19 crisis has ended.	Employment is ended and treated as a separation or termination. There is NO expectation for rehire or reinstatement after COVID-19 crisis has ended.
Benefits Note: Health insurance carriers are making provisions under these circumstances so check with individual carriers.	Employee can continue on benefits coverage during furlough leave. Employee is expected to continue paying for monthly premiums for benefits during leave. Employer would establish an agreement with employee to set up a monthly billing arrangement with employee.	In this situation since the employee is terminated (even if temporary) benefits coverage ends the last day of the month. A termination does trigger a COBRA qualifying event. Optional: Employer can help cover the cost or portion of COBRA. BENEFITS: Check with insurance carriers since you may be able to set up a Rehire Provision that would waive the wait period should you rehire any of the laid off employees.	Benefits coverage ends the last day of the month. A termination does trigger a COBRA qualifying event. Optional: Employer can help cover the cost or portion of COBRA.
Unemployment Insurance	Employees in all categories are eligible for state UI. See state UI for details.		
Applicability of FFCRA Note: Still waiting on DOL	No, If the employee is out on an unpaid furlough and not working due because the company does not have enough work or	Since the employee is no longer employed, they would not be eligible to receive EFMLA or EPFL under this Act.	Since the employee is no longer employed, they would not be eligible to receive EFMLA or EPFL under this Act..

for final guidance on application of FFCRA.	business, employees are not entitled to take paid sick leave or expanded family and medical leave under FFCRA.		
Separation and Severance Pay	Not applicable since employee is not separating from the company.	Check state laws for final pay requirements. Check state law and company policy on paying out accrued PTO. Optional: Employer can initiate separation & release agreements if applicable. Option to offer severance pay but not required, and may not be advisable since it's considered a "temporary" layoff.	Check state laws for final pay requirements. Check state law and company policy on paying out accrued PTO. Optional: Employer can initiate separation & release agreements if applicable. Option to offer severance pay but not required.
Tax Credits under FFCRA	Employers are eligible for a 100% refundable payroll tax credit on the wages paid for leave. Health insurance costs are also included in the credit. The tax credits would be administered by the IRS and be creditable against employer-side payroll tax liability, with any excess refunded to the employer. Tax credits for COVID-19 related pay sunset on December 31, 2020. IRS Release: https://benefitslink.com/src/irs/IR-20-57.pdf	N/A for terminated employees.	N/A for terminated employees.

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