

# Are employee furloughs an option when eliminating services to the public due to the COVID-19 pandemic?

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Many agencies are reducing or eliminating services to the public as a result of Governor Jay Inslee's executive orders requiring shelter in place restrictions to slow the spread of COVID-19 to protect the health and welfare of the public. One example are parks and recreation programs as the public is currently restricted from gathering together for recreational or social activities. Reducing programming may mean reducing employees due to a temporary lack of work or resources.

One option available to employers is to place employees on furlough during the time services are not being provided. A furlough is an employer mandated temporary unpaid leave from work. Furloughed employees still retain their jobs, but they cease working and do not receive pay. The intention is for this to be a temporary arrangement so when the work comes back, the workers can come back to their jobs.

Furloughed employees remain on the employer's books as employees. However, they may not be asked to perform any work while on furlough or they are entitled to receive pay. Generally, employers should remove furloughed employees' access to work email and facilities to avoid any unauthorized work.

Furloughed employees do not receive pay, but they often continue to receive health care benefits. This is determined by the health care plan in place. Employers have options such as adding this benefit if it does not already exist, paying employee health care premiums during the furlough period, or advancing the cost of the premiums and recouping them when the employee returns to work.

Employees can be furloughed through a reduction of hours, workdays, or specific periods of time depending on the needs of the employer. For exempt employees, reducing the schedule by a workday is better than trying to calculate a reduction on an hourly basis. The length of a furlough is generally anticipated to be for a short, specific period of time.

It is important to ensure there is a specific operational basis to support the furlough of employees. For example, furlough of parks and recreation employees if programming has been cancelled or suspended. This will help alleviate any concerns that a discriminatory or retaliatory basis was used to determine which employees are going to be furloughed.

The employer's personnel policies and employee handbook should be consulted to determine if any guidelines have been adopted relating to furloughs or employee benefits under these circumstances. If the employees being considered for a furlough are represented by a collective bargaining unit, the employer should review the bargaining agreement for provisions relating to furloughs. If it does not contain any, the employer may need to engage in collective bargaining regarding the decision to utilize a furlough as well as the terms of the furlough. Your agency should consult with your labor attorney for advice regarding furlough of represented employees.

On the next page is a sample letter to an employee providing notice of an impending furlough. This template should be modified to fit an employer's specific situation. Ultimately, the goal is for the employee to understand s/he is valued, and the furlough is only a temporary measure based on operational needs of the agency.

**SAMPLE FURLOUGH NOTICE TO EMPLOYEE**

[Employee]

*Re: Notice of Placement on Furlough*

Dear Employee:

Due to the effect of COVID-19 on work operations, [employer] has determined it is necessary to make adjustments to its workforce. As a result, effective [date], you will be placed on furlough.

You are a valued employee and your service to [employer] is appreciated. At this time, we are experiencing a lack of work due to conditions outside of our control. All [probationary/part-time/seasonal/parks and recreation/non-essential] employees are similarly being placed on furlough. This is not a decision we made lightly.

The length of time for this furlough is currently unknown. [Pursuant to the collective bargaining agreement/personnel policy/employment agreement] you may be recalled and reinstated up to [time frame] from the date of a layoff. We are hopeful you will be recalled from this furlough sooner than that. We will notify you as soon as we have further information regarding your return to work.

In the meantime, [employer] [will continue to provide your health care benefits/will pay your employee premium until you return to work/will recoup the employee portion of the premium from your future paycheck]. [(In the alternative) You are eligible for COBRA benefits during your furlough.] If you have any questions regarding your employment or benefits, please do not hesitate to contact [name] in Human Resources at [phone number].

Very truly yours,