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# Sustaining Your Business: Best Practices for Furloughs and Layoffs

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Having worked in all areas of Human Resources during her career, Sonya's experience and skills allow her to focus on the vision of each organization while providing services to enhance, improve, and support a strong HR functionality necessary in every company she serves.

Sonya's passion is helping companies and employees be successful together.



# Goals of this Presentation



Define Furlough vs. Layoff



How do Benefits and PTO/Vacation play a role in furloughs and layoffs



The Do's and Don'ts for FMLA and Workers Comp as it relates to furloughs and layoffs

## Definitions

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- A **furlough** is a mandatory leave of absence imposed by the employer, typically for business or economic reasons, where employment has not been terminated.
- A **temporary layoff** is a termination of employment with the hope that the employee will be rehired or recalled at some point in the near future (e.g., within 6 months).
- A **permanent layoff** is a termination of employment with no specific intent to rehire or recall the employee to work.





# Furlough

- Furloughing an associate generally has an effective date and a proposed return date. Generally, employer paid benefits are still available to the associate with an agreement that all associate paid deductions are paid in full by the time the associate returns to work.
- Associate(s) can file for unemployment while on Furlough and are not generally paid by the employer during furlough.

# Temporary “Layoff”



- During a temporary layoff, an associate is generally termed out of the company payroll system and receives a letter of COBRA offerings.
- The associate is able to file for unemployment at this time. The layoff is not expected to last longer than 6 months and the associate is called back to work when the workload picks up and they are needed.

# Permanent “Layoff”



- This is in effect a permanent termination of employment with no agreement to call the associate back to work. Associates are encouraged to look for other work. Associates receive a notice for COBRA and are eligible to file for unemployment.
- In the notice of permanent layoff, employers can stipulate that if a position becomes available, the employee would have to re-apply for a position.

# Paid PTO or Vacation



- Another topic during Furlough and layoffs is: “does the associate have to be “paid” for any remaining PTO or vacation time”?
- This is a topic with many considerations:
  - What is the company's leave policy
  - What is the company PTO or vacation policy
  - Is the paid time accrued
  - What is your state specific guidelines
  - Values & Culture “doing the right thing”



# FMLA

- Can an employee be laid off while on FMLA?
- It is not illegal for an employer to lay an associate off during an approved FMLA leave, but it is illegal for an employer to lay an associate off because of an approved FMLA leave.
- A company can lay off an associate while on approved FMLA leave as long as the company would have made the same decision if an associate had not used the FMLA.

NOTE: For audit protection, employers are encouraged to be able to provide proof of this during any type of employment audit

# Workers Comp



- It's perfectly legal for an employer to lay off an employee who has an active workers' comp claim, as long as the layoff is not related to the claim.
- However, an employer may not lay off or fire an employee because of that employee's workers' comp claim.

Questions? Contact Me Today!

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