

Reduction of Compensation Salary/Hourly Rate

Worksite Closed

Determine type of reduction.
e.g. 20% across the board

Give advance notice.
Amount of advance notice may be mandated by state law.

Give proper notification form with required details of salary change.
Wage theft notice requirements exist in NY, CA and IL.

All benefits including health care, paid sick leave and PTO/vacation should remain available to employees.
Check eligibility threshold for benefits.

New Federal paid sick/paid family leave does not cover closures due to business reasons or a federal, state or local directives (i.e. Shelter-in-Place Orders), but state/municipal emergency paid sick may apply.

Potential coverage under state disability or family leave insurance programs if employee or family member is sick.

Need to assess how long you can/will pay if shutdown continues due to government or public safety.

Exempt employees must still make above the salary threshold or they will lose their exemption. Or can be paid hourly if threshold not met.

Worksite Open

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Give advance notice.
Amount of advance notice may be mandated by state law.

Give proper notification form with required details of salary change.
Wage theft notice requirements exist in NY, CA and IL.

All benefits including health care, paid sick leave and PTO/vacation should remain available to employees.
Check eligibility threshold for benefits.

Employees may be eligible for state disability or family leave insurance programs if employee or family member is sick.

Exposure requirements of the new federal paid sick leave and paid family leave are effective on 4/1/2020.
See below details. Emergency state/municipal paid sick may also apply.

Paid Sick Leave

On top of existing policy or state requirements for several reasons including COVID-19 diagnosis/symptoms, caring for sick relative, or quarantine/isolation order from physician or public health official. Full time employees - 80 hours; Part-time employees - average regular hours over a two week period

Regular rate of pay, at a maximum rate of \$511 per day (\$5,111 aggregate) if leave for employee; pay at 2/3rds of regular rate, at a maximum rate of \$200 per day (\$2,000 aggregate) if leave for care of other

Family Leave

Up to 12 weeks of partially paid emergency FMLA for employees who cannot work because they are caring for child whose school is closed

The first 10 days are unpaid (but may be covered by the paid sick leave addressed above or the employee can substitute other sick leave or PTO). Then they must be paid leave at 2/3rds of their regular rate of pay, at a maximum rate of \$200 per day (\$10,000 aggregate)



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April 2020

Reduction of Hours/Temporary Furloughs

Worksite Closed

Determine who will be affected and how.

e.g. Reduce or no hours for non-exempt, and staggered weeks for exempt staff.

Exempt staff need to be paid their full salary (or new reduced salary) for any workweek in which work is performed. Cannot deduct for partial days worked or if no additional work is available.

New Federal paid sick/paid family leave law does not cover closures/reductions due to business reasons or federal, state or local directives (i.e. Shelter-in-Place orders).

Exempt staff need to be paid their full salary (or new reduced salary) for any workweek in which work is performed. Cannot deduct for partial days worked or if no additional work is available.

Employees may be eligible for unemployment if not collecting paid sick leave/PTO

Potential coverage under state disability or family leave insurance programs if employee or family member is sick

Ensure exempt workers meet federal and state mandated salary threshold for exemption or consider paying hourly.

All benefits including health care (subject to availability), paid sick leave and PTO/vacation should remain available to employees. Can allow employees to use or can restrict use.

Determine eligibility for health care if reduction in hours/eligibility thresholds. Check eligibility threshold for benefits.

Paid sick leave does cover employees when business is closed or hours reduced in some jurisdictions (e.g. NJ, San Francisco, Los Angeles). (See attached addendum)

Consider if federal or state WARN notices must be filed. Federal notice period may be reduced due to "unforeseen circumstances." Note that some state notice periods are being forgiven during the pandemic.

Give notification required for details of hours change.

Assess whether "final pay" rules may be triggered due to lack of work (e.g. In California it's a 10-day furlough) requiring PTO payout.

Worksite Open

Determine who will be affected and how.

e.g. Reduce or no hours for non-exempt, and staggered weeks for exempt staff.

Exposure requirements of the new federal paid sick leave and paid family leave are effective on 4/1/2020.

Paid Sick: 10 days of paid sick leave on top of existing policy or state requirements for several reasons including sickness, caring for a sick relative or a quarantine by a public health official or physical

Family Leave: Up to 12 weeks of partially paid emergency FMLA for employees who cannot work because they are caring for a child whose school is closed.

Need to assess any immigration implications

Employees may be eligible for unemployment if not collecting paid sick leave/PTO

Potential coverage under state disability or family leave insurance programs if employee or family member is sick

Exempt staff need to be paid their full salary (or new reduced salary) for any workweek in which work is performed. Cannot deduct for partial days worked or if no additional work is available.

Ensure exempt workers meet state mandated salary threshold for exemption or consider paying hourly.

Determine eligibility for health care if reduction in hours/eligibility thresholds.

Consider if federal or state WARN notices must be filed. Federal notice period may be reduced due to "unforeseen circumstances." Note that some state notice periods are being forgiven during the pandemic.

Give notification required details of hours change, including working instructions for exempt employees to maintain exempt status.

Paid Sick Leave
Full time employees - 80 hours; Part-time employees - average regular hours over a two week period

Regular rate of pay, at a maximum rate of \$511 per day (\$5,111 aggregate) if leave for employee; pay at 2/3rds of regular rate, at a maximum rate of \$200 per day (\$2,000 aggregate) if leave for care of other

Family Leave
Up to 12 weeks of partially paid emergency FMLA

The first 10 days are unpaid (but may be covered by the paid sick leave addressed above or the employee can substitute other sick leave or PTO). Then they must be paid leave at 2/3rds of their regular rate of pay, at a maximum rate of \$200 per day (\$10,000 aggregate)

All benefits including health care, paid sick leave and PTO/vacation should remain available to employees. Can allow employees to use or can restrict use.

Paid sick leave does cover employees when business is closed or hours reduced in some jurisdictions (e.g. NJ, San Francisco, Los Angeles). (See attached addendum)



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April 2020

Termination of Employment

Worksite Closed

Consider if federal or state WARN notices must be filed. Federal notice period may be reduced due to "unforeseen business circumstances." Note that some state required notice periods are generally being forgiven during the pandemic.

Prepare final pay in accordance with state law, including payment of accrued but unused PTO if required by policy or state law.

Potential coverage under state disability or family leave insurance programs if employee or family member is sick

Worksite Reopens but Some Employees Laid Off

Determine who will be affected and how.

e.g. Reduce or no hours for non-exempt, and staggered weeks for exempt staff.

Consider if federal or state WARN notices must be filed. Federal notice period may be reduced due to "unforeseen business circumstances." Note that some state required notice periods are generally being forgiven during the pandemic.

Prepare final pay in accordance with state law, including payment of accrued but unused PTO if required by policy or state law.

Potential coverage under state disability or family leave insurance programs if employee or family member is sick

Assess any adverse impact on protected classes in conducting a RIF.

All benefits including health care, paid sick leave and PTO/vacation should remain available to active employees.

For active employees

Exposure requirements of the new federal paid sick leave and paid family leave are effective on 4/1/2020.

Paid Sick: 10 days of paid sick leave on top of existing policy or state requirements for several reasons including sickness, caring for a sick relative or a quarantine by a doctor or public health official

Family Leave: Up to 12 weeks of partially paid emergency FMLA for employees who cannot work because they are caring for a child whose school is closed. Additional emergency paid sick may be available under state/municipal law.

Paid Sick Leave

Full time employees - 80 hours; Part-time employees - average regular hours over a two week period

Regular regular rate of pay, at a maximum rate of \$511 per day (\$5,111 aggregate) if leave for employee; pay at 2/3rds of regular rate, at a maximum rate of \$200 per day (\$2,000 aggregate) if leave for care of other

Family Leave

Up to 12 weeks of partially paid emergency FMLA

The first 10 days are unpaid (but may be covered by the paid sick leave addressed above or the employee can substitute other sick leave or PTO). Then they must be paid leave at 2/3rds of their regular rate of pay, at a maximum rate of \$200 per day (\$10,000 aggregate)

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Potential coverage under state disability or family leave insurance programs if employee or family member is sick