

INSTRUCTIONS

Return to Work From Furlough Job Offer Letter

Note: If you are using a Paychex template "RETURN TO WORK FROM FURLOUGH JOB OFFER TEMPLATE LETTER", these INSTRUCTIONS apply to all versions of the letter. However, there are separate versions of the template to be used for employees working in the following states: California, Georgia, Idaho, and Montana. Please note: These template letters are not intended for use in recalling employees represented by a collective bargaining agreement (unionized employees).

Return-to-work offers should be delivered in writing. While making job offers in writing is generally a recommended "best practice," having written job offers and documented responses are critically important where employers (1) received a Paycheck Protection Program loan and will be seeking to optimize their loan forgiveness opportunity; (2) intend to protest an individual's continued receipt of unemployment benefits if the employee rejects the offer and must provide written evidence to the state unemployment agency of both the offer and the rejection; or (3) otherwise offer documentation of such an offer for any other purposes.

Disclaimer

The Paychex template letter and instructions do not constitute legal or accounting advice. While these materials may be used to assist clients in their efforts to achieve certain outcomes, Paychex does not guarantee that a client will achieve any particular outcome by using the template letters and these Instructions. We encourage you to consult with your legal counsel or accountant before using the template letter.

Each bracketed number below corresponds to an entry on the template letter for your convenience when completing the letter. The brackets can be deleted before sending to employees.

[1] Insert the name and address of the employee being recalled to work.

[2] Insert the employee's first name.

[3] Insert furlough date and company name.

For California employees: If using for employees in the city of Los Angeles, please consult with your counsel to determine whether the City of Los Angeles Recall Ordinance applies.

[4] If the employee's job title, department, schedule, duties, pay, benefits, or any other terms of employment will be different from before his/her furlough, those changes should be reflected here.

Note that some states/jurisdictions require specific notification or forms (e.g., state or local New Hire Forms, Wage Theft Prevention Act Forms, etc.) prior to making some changes to employment terms. Please contact your Paychex HR professional or legal counsel for guidance regarding specific notices and forms that may be required in your employees' locations.

[5] Insert the date by which employees must respond to the offer. Documenting the employee's response and/or failure to return to work is very important in several circumstances.

For PPP loan forgiveness purposes: the SBA and U.S. Treasury have indicated that an employer's loan forgiveness opportunity, which is based on the employer maintaining certain FTE employment levels, will not be reduced if employees reject the employer's good-faith offers to reinstate their employment. According to the SBA and Treasury, evidence of job offers and rejections must be documented.

For State Unemployment Insurance claims protest purposes: Employers may extend offers to employees, who may choose not to return to work because they are receiving more in unemployment benefits enhanced by the CARES Act through July 2020 than they would receive when they return to work. Although some states have expanded the reasons why an employee may legally continue to receive unemployment insurance benefits after rejecting a job offer, employees may not choose to reject an offer of suitable employment because they prefer receiving unemployment benefits. Employers should report to their state unemployment agency employee rejections of job offers to permit the applicable agency to investigate. Employers will need to provide written documentation of the dated job offer and rejection.

For State of Washington employees: Employers may not be able to formally terminate Washington employees who reject a job offer if the employee advises that he satisfies the criteria in the attached. There is a [High Risk Employee Proclamation](#) that, among other obligations, may prohibit separation from employment, require granting of leave benefits, and prevent loss of medical benefits for high risk employees in certain circumstances. Presently, it expires on June 12, 2020, but that date could be extended.

[6] If employees remained on the employer's benefits during the furlough, insert any relevant terms of payment, repayment, or other relevant information. If the employer did not offer any of the previously mentioned benefits or offered other benefits not specified, the employer may revise accordingly.

For California employees: Please disregard the above instruction. Insert contact information for employees who wish to authorize modifications to their deductions. Consult with your Paychex HR professional if you have questions about your state.

[7] This language is important if employees were allowed or required to use PTO during the furlough. Delete if not applicable to your workplace.

For California employees: Please disregard the above instruction. Modify the second sentence in paragraph 7 if employee is returning on a reduced schedule that would impact employee's eligibility for PTO or delete if there is no such policy.

For Idaho employees: Choose the statement that reflects your company's policies, and delete the statement that does not apply. Fill in the correct number as indicated if your company maintains separate banks paid leave types.

[8] Information regarding state expansion of UI programs for reasons related to COVID-19 can be found [here](#).

[9] While the employment at-will reminder is always a good idea for employers to include, it is not necessary here. Employers concerned that the at-will reminder sounds overly harsh during this particularly difficult time, should consult with legal counsel as to whether to delete it. Employers should include the last sentence of this paragraph in any event, inserting the names of any specific agreements, such as noncompete agreements and arbitration agreements that the employer intends to remain in effect. Employers should consult their counsel to determine whether they must take any additional steps, such as re-executing these types of agreements or offering additional consideration, to ensure these agreements remain in full force and effect.

For Montana employees: The at-will statement has already been deleted because it does not apply.

[10] Employers should put in writing before or at the time of making an offer the health and safety policies, protocols, and measures (e.g., social distancing, work from home, temperature checks, disinfecting, hand washing/sanitizing, etc.) to promote employee and public safety. Also [check the relevant state/local orders](#) regarding safety and health requirements related to essential employers/opening laws.

Failure to include your health and safety protocol in writing may result in an employee's continuing to qualify for unemployment benefits after rejecting the offer, an employer's increased risk in moving forward with formal termination, and other workplace liabilities. Additional information regarding workplace health and safety protocols can be found [here](#).

[11] This paragraph is self-explanatory.

[12] Employees should be directed to a contact for questions, concerns, and to request workplace accommodations, which should be addressed. Employers may have legal obligations to provide workplace accommodations to employees including members of certain vulnerable populations. Please consult with your Paychex HR professional or legal counsel for additional information about accommodating employees.

[13] Insert the name of the person to whom the recipient of the letter should reply. Best practice would be to send a self-addressed stamped envelope to the recipient. Employers should also accept response by email as indicated.

If an employee does not return this document, you do not hear otherwise from the employee, and he or she fails to report to work, indicate in writing on the face of the document the choice they made. This will help you satisfy the PPP loan forgiveness requirement that there is adequate documentation of the rejection. It will also serve as written documentation to assist in contesting unemployment benefits or in any other instance in which you may be required to demonstrate an offer and rejection.