

## INSTRUCTIONS

# Re-Hire Job Offer Template Letter

**Note:** If you are using a Paychex template “RE-HIRE JOB OFFER TEMPLATE LETTER”, these INSTRUCTIONS apply to all versions of the template. Employers may use the “REHIRE JOB OFFER LETTER” if they previously separated employees from the payroll. However, there are separate templates applicable to employees in California and Montana. Please note: These templates are not intended for use in rehiring employees represented by a collective bargaining agreement (unionized employees).

Deliver job offers in writing. While making job offers in writing is generally a recommended “best practice,” having written job offers and written responses is 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. 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 preparing the letter. The brackets may be removed before sending the letter.

**[1]** Insert the name and address of the employee being rehired.

**[2]** Insert the employee’s first name.

**[3]** Insert separation date and company name.

**For California employees:** If using the template letter for employees working in the city of Los Angeles, please consult with your counsel to determine whether or how 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 they were laid-off, those changes should be reflected here.

Insert any (in California, insert all) post-offer, pre-hire procedures that apply, such as background check or drug and alcohol testing, typically done for “new hires.” (Consult your Paychex HR professional or legal counsel to ensure legal compliance with respect to the way you carry out any pre-hire procedures).

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

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

**For PPP loan forgiveness purposes:** the SBA 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 dated job offer and rejection.

[6] Check with your plan administrator or broker to determine any plan eligibility requirements. Also, given the relatively brief break in employment, you may want to consider using the employee's prior hire date for or purposes of PTO or vacation pay, etc. as an incentive to rejoin the company. Please consult with your Paychex HR professional or legal counsel to discuss any related changes to your policies that may be necessary or any state laws that may impact your ability to make that change.

**For California employees:** If an employee's employment with the Company ends and the employee is subsequently rehired by the Company **within one year from the date of separation**, the amount of unused paid sick leave at time of separation must be reinstated. The employee will be entitled to use those previously unused paid sick days **and** accrue

[granted] additional new paid sick days upon rehiring. If the Company had a PTO policy which was being used for compliance with CA State Paid Sick Leave law and previously paid out the PTO upon end of employment, then the Company **does not** have to reinstate the previously paid out PTO time. Applicable local paid sick leave laws must also be reviewed for reinstatement rights of previously accrued/granted sick leave upon reinstatement.

If paid sick leave time is accrued and available to your rehired employees, insert a statement in this paragraph reflecting the amount of paid sick leave available to them. Please consult with your Paychex HR professional or legal counsel for additional guidance.

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

**For Georgia employees:** To the extent the separation at issue was for less than six months, the Georgia DOL may impose penalties on employers who should have filed, but did not file, online weekly for eligible employees during the COVID-19 emergency period.

[8] Employers should insert in the last sentence of this paragraph the names of any specific agreements, such as non-compete and arbitration agreements, or policies that the employer intends to have the employee execute as a condition of employment.

Employers should consult with legal counsel to determine whether such agreements are appropriate, lawful, and enforceable in the state where the employee is working and whether they must take any additional steps, such as offering additional consideration.

Because employees are being rehired after a formal separation, employers should consider which of the documents typically executed by newly-hired employees must be executed, such as employee handbook acknowledgment, tax and direct deposit forms, and the Form I-9. Please consult your Paychex HR professional for further information.

**[9]** 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](#).

**[10]** This instruction on the template letter is self-explanatory.

**[11]** Employees should be directed to a company contact for questions, concerns, and to request workplace accommodations. 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.

**[12]** 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 with confirmation receipt. 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.