

Employer Resource: Staffing Decisions for Keeping Your Business Open During COVID-19

If you're an employer and are trying to keep your business open and operating during these uncertain times, you're going to be facing a myriad of tough choices about how to keep the business afloat today and still be ready for when life and business return to normal in the future.

One of the tough choices you'll need to make is what to do about staffing while continuing to meet the demands of your customers. You've probably been hearing about businesses doing everything from reducing staff hours and/or compensation, to furloughs and even lay-offs. In this post we'll examine each of these options and the implications of them on your business to help you make some of these decisions.

What level of staff do you need?

The first thing you must consider is just how much staff you will need to continue to meet your new levels of business demands. This estimation will likely take a bit of guess work as you might not yet know what your levels of demands might be. However, in many cases, business owners are already getting a sense of what their highest priority business demands will look like until this downturn passes.

Consider Your Options: Pay Cuts vs Reduced Hours vs Furloughs vs Layoffs

For many employers, pay cuts, reduced hours, furloughs or layoffs will be the choices they will be facing in terms of staffing their businesses during this pandemic.

Here's a look at these options and when each might be appropriate, as well as some of the benefits and risks for each choice. For all of the options below, employees can apply for unemployment; however, unemployment requirements vary by state. Before deciding on a specific course of action, be sure to check your state's labor laws to ensure you are in compliance.

Reduced Hours/Pay cuts

One option a business might choose is to reduce staff hours but keep all staff on the payroll. Another option is to ask employees to take a temporary pay reduction while getting over the hump. Some employers may even want to combine these options.

Reduced hours and/or pay cuts might make sense if you believe you will have less business and not need to be open as many hours per day, or if you will have fewer customers. Another reason you might consider these options is if your business is in a specialized area (for example, transportation or equipment) and you have specialized roles or skilled trades workers (ex. welders, mechanics, etc.) that you need to keep on staff to get business done, but you may not have enough work to keep these employees busy full time.

Offering employees reduced hours and/or pay cuts can be good choices if you think your business will be impacted for a short period of time (weeks or a few months), and if you don't want to run the risk of losing these skilled workers.

If you choose one or both of these options, you should notify employees in writing and get their agreement. They do have the option of saying no and finding other employment. However, offering these options to your employees can signal a, “We’re all in this together, and we believe we will weather this,” sense of camaraderie and team work.

Benefits of this option:

- Keeping the business open and operating
- Reduced payroll costs
- Potentially retaining key talent

Risks of this option:

- Employees may not agree with taking reduced hours and/or pay and may seek employment elsewhere
- Continuing to have costs of benefits

Furloughs

A furlough continues employment, but reduces scheduled hours or requires a period of unpaid leave. One of the benefits of choosing to use a furlough is that it can help employers to reduce payroll expenses and still retain their best employees.

Because workers are still employed during a furlough, they do continue to receive their benefits; however, employers should note that depending upon requirements in your plan, employer-sponsored health insurance could potentially be impacted for some employees. (For example, if your health plan requires that employees work a minimum number of hours to be eligible for health insurance and the employees’ hours on furlough fall below the required hours, it can impact their eligibility.) Check your company’s health plan for guidance.

If you choose the furlough option, be aware that some states have required notice periods for furloughs so be sure to check with your state’s department of labor. Employers should give affected employees as much notice as possible.

While on furlough some employees may seek other temporary employment unless an employer has guidelines in place that specifically prevents employees from doing so.

Do keep in mind that for non-exempt employees, employers are only required to pay them for the actual hours worked during a furlough. However, with exempt employees, if they work any part of a day, employers are required to pay them their full salary for that day.

Benefits of this option:

- Furloughs mean employers do not have to pay out final benefits (like accrued time off) because workers are still employed.
- For employers who feel confident that they will return to normal operations when the threat of the pandemic is over, furloughs may be a great way to reduce payroll expenses while still retaining key staff.

Risks of this option:

- Some employees may find other employment during a furlough and may not want to return afterward.
- Employers will continue to have the costs related to maintaining employee benefits.
- Depending on an employer's health insurance policy, they may not be able keep some employees covered during a furlough due to eligibility requirements laid out in the policy.

Layoffs

Layoffs terminate employees' employment with a company for reasons unrelated to employee performance. Layoffs can be temporary or permanent.

If a business can survive with a reduced workforce, a layoff may make sense. In a layoff, the employer is no longer obligated to pay employee benefits or guarantee a return to work date.

Employees who are laid off are usually eligible for unemployment benefits, and may be able to keep their health insurance through COBRA.

Other benefit considerations in a layoff include retirement accounts, any deferred compensation benefits and whether an employer will have to pay out accrued vacation. Each of these situations may vary by state and by plans so employers will need to do some research before making a decision as to whether a layoff is the best move. And for some employers, WARN notices may be required.

Benefits of this option:

- Cost savings from reduced payroll and benefits.
- May be able to do a temporary layoff and call workers back when conditions improve.

Risks:

- Employees may find other employment.
- Employers may have additional benefit expenses to pay out which can be a financial burden.
- There are a number of federal and state laws regarding layoffs that employers must comply with when executing a layoff.

WARN requirements

According to the Society for Human Resources Management (SHRM):

"The WARN Act requires advance notice when a mass layoff or plant closing occurs that results in employment loss for a requisite number of people... The federal WARN Act covers employers of 100 or more full-time employees and layoffs of 500 or more employees. It also covers employers of 50 to 499 employees if those workers constitute at least one-third of the workforce.

An "employment loss" is defined to include not only terminations but also furloughs that last for more than six months and significant reductions in hours."

In addition, many states have “mini-WARN Act” laws. Employers need to contact their state’s department of labor for more information on their state’s requirements.

While these are difficult times that require difficult decisions, it’s important to weigh all options for how to reduce your labor expenses while trying to sustain your business. Carefully consider your options, and for those issues for which you need more guidance, reach out to a human resources professional to help you sift through your choices.