

April 17, 2020

COVID-19 Daily Briefing Recap

Alternatives to Furloughs and Layoffs

Please note that the following is a recap of our COVID-19 Daily Briefing from April 17, 2020. Due to the rapidly evolving nature of the pandemic, we recommend that you consult the most up to date materials possible. Visit Jackson Lewis P.C.'s [COVID-19 resource page](#) for updates on workplace impacts and [sign up here](#) to receive invitations to future daily COVID-19 webinar briefings and email updates on ongoing legal and workplace health challenges.

Reduced Wages/Salaries

- Despite the unprecedented nature of the pandemic, federal and state employment laws still apply.
- Non-exempt employees:
 - Wages cannot drop below minimum wage (\$7.25 per hour at the federal level; higher levels apply in some states).
 - Must still be paid overtime.
- Exempt employees:
 - Threshold minimums must still be met (\$684 per week at the federal level; higher thresholds apply in some states).
 - Failure to meet the thresholds risks compromising the exempt status and triggering requirement to pay overtime.
- Wage and salary changes should be made one-time and be prospective, not retroactive or manipulative to avoid loss of exempt status.
- We recommend that all employers communicate wage and salary reductions in writing, even though all states do not require it.
- Employees are not required to accept reductions in pay, so employers need to be prepared on how they will respond in this eventuality.

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Reduced Hours/Schedules

- Again, federal and state laws still apply.
- Many states have workshare programs that allow employees with reduced wages or salaries to receive partial unemployment.
- For non-exempt employees, the reduction is straightforward, as they are only paid for hours worked.
- For exempt employees, employers need to be aware that partial workweeks must still be paid in full, so reductions need to be made in full-week increments.
- May need to notify employees in advance – check state requirements.
- Be aware of how your policies and state law impact use and accrual of PTO or vacation.
- Depending on the size and scope, reductions can trigger WARN/mini-WARN.

Pros

- Allows employers to continue operations and be well-positioned to resume full operations when circumstances allow.
- Employees can continue working, which can keep morale up and improve long-term retention.
- Employees can remain eligible for benefits.
- Depending on the state, employees may qualify for partial unemployment.
- Keeping the workforce intact can be good PR for the company.
- May be able to qualify for federal funding under the CARES Act.

Cons

- Employers must plan carefully and remain alert to ensure employees are not working on non-scheduled time, which could trigger payment of additional salary or overtime.
- Employers must still abide by CDC/state/OSHA recommendations for social distancing and safe work environments.
- Reductions may still trigger unemployment in certain states.
- Employees may be eligible for leave under FFCRA if working.

What if I have more questions?

As issues and concerns around COVID-19 unfold daily, employers must prepare to address the threat as it relates to the health and safety of their workforce. Keep up to date with [Jackson Lewis' latest available information and resources](#).

If you have any questions, please contact the Jackson Lewis attorneys with whom you regularly work.