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**Furlough vs Layoff vs Reduction in Force (RIFS)**

All three of these terms describe actions that are intended to achieve cost savings by reducing a company's payroll costs. Even though the words have been used interchangeably, their true meanings are quite different.

**Furlough**

A furlough is an alternative to layoff. When an employer furloughs its employees, it requires them to work fewer hours or to take a certain amount of unpaid time off. For example, an employer may furlough its nonexempt employees one day a week for the remainder of the year and pay them for only 32 hours instead of their normal 40 hours each week. Another method of furlough is to require all employees to take a week or two of unpaid leave sometime during the year. Employers must be careful when furloughing exempt employees so that they continue to pay them on a salary basis and do not jeopardize their exempt status under the Fair Labor Standards Act (FLSA). A furlough that encompasses a full workweek is one way to accomplish this, since the FLSA states that exempt employees do not have to be paid for any week in which they perform no work.

An employer may require all employees to go on furlough, or it may exclude some employees who provide essential services. Generally, the theory is to have the majority of employees share some hardship as opposed to a few employees losing their jobs completely.

**Layoff**

A layoff is a temporary separation from payroll. An employee is laid off because there is not enough work for him or her to perform. The employer, however, believes that this condition will change and intends to recall the person when work again becomes available. Employees are typically able to collect unemployment benefits while on an unpaid layoff, and frequently an employer will allow employees to maintain benefit coverage for a defined period as an incentive to remain available for recall.

**Reduction in Force**

A reduction in force (RIF) occurs when a position is eliminated without the intention of replacing it and involves a permanent cut in headcount. A layoff may turn into a RIF or the employer may choose to immediately reduce their workforce. A RIF can be accomplished by terminating employees or by means of attrition.

When an employee is terminated pursuant to a reduction in force, it is sometimes referred to as being "riffed." However, some employers use layoff as a synonym for what is actually a permanent separation. This may be confusing to the affected employee because it implies that recall is a possibility which may prevent the employee from actively seeking a new job.

**Public vs. Private Furloughs**

A private business might furlough its employees during a short-term or cyclical downturn. For example, not working for the next 30 days during the Covid-19 pandemic.

In the case of the federal government, furloughs occur when it fails to authorize new spending.

The federal government has an annual appropriations process. This requires Congress to create and pass a budget that authorizes its spending for the next fiscal year (although Congress can pass a budget for as short or long a period as possible). If Congress fails to pass a budget, it fails to fund the agencies which rely on this process. They don't get the money necessary to pay their employees and, as a result, have to furlough their employees.

**No Work Rule**

Furloughed employees are absolutely banned from doing any work on behalf of their employer whatsoever.

This is a zero-tolerance rule. A furloughed employee can't so much as take a phone call or answer e-mails. Even five minutes breaks the No Work Rule.

If a salaried employee does any work while on furlough the employer must pay them the equivalent of their salary for the entire day. If an hourly employee works while on furlough the employer must pay them for the time worked.

As a result, furloughed employees typically have their access to work accounts and devices revoked. This is to prevent well-meaning employees from breaking the law and triggering a payment obligation.

**Government "Excepted Employees"**

During a government shutdown two types of federal employees still show up for work.

The first category is employees who are funded through some other mechanism than the annual budget. The United States Post Office, for example, is self-funded. As a result, post offices stay open through a government shutdown.

The second category is what the government calls "excepted" employees. This [refers to](https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-shutdown-furloughs.pdf) employees who are required to keep showing up for work during a furlough because their job relates to health, safety, property protection or some other critical function. Since their agencies have no funding, these employees do not get paid during a shutdown.

**Furloughs vs. Layoffs**

There are four key differences between a furlough and a layoff.

1. Furloughed employees have an expectation that they will return to work. Typically, an employer will give furloughed employees either a specific date or a specific condition for resuming duties.
2. Furloughed employees typically retain their benefits. Most notably, employees usually retain access to any health and life insurance during the furlough.
3. A furloughed public employee retains their employment rights. Government employees cannot be fired or replaced without process. For a public employee who has been furloughed, rather than laid off, this means that they have a presumptive right to return to that position if they choose and it exists.
4. A furlough is relatively seamless. Laying off employees requires significant process, as does hiring new staff. This can be time consuming and expensive. By contrast, a furloughed employee can come and go fairly easily.

An employer typically will use a furlough to retain staff that they can't afford but don't want to lay off.

In the case of the federal government, every agency expects to reopen once Congress can pass a budget. As a result, they don't want to lose their staff. Instead of going through the extraordinary expense and disruption of laying off then rehiring an entire staff, agencies furlough. Once the government reopens, employees can show back up to work.

**Employee Rights During a Furlough**

First and foremost, furloughed employees have the right to seek new employment. For an employer, one of the main risks of this process is that their top talent will get jobs elsewhere.

Many employees consider taking temporary jobs during a furlough. They should check carefully for rules against outside employment and/or second jobs, as their employer is free to enforce these policies even during a furlough.

For public employees, the Office of Personnel Management has [specifically](https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-shutdown-furloughs.pdf) stated that "rules regarding outside employment continue to apply when an individual is furloughed." If a suspended employee has questions about those rules, the agency recommends contacting their agency ethics official… who is also probably furloughed.

A furloughed employee may also take unemployment benefits for their time without pay. Since unemployment is paid by states, not the federal government, it will not suffer a budgetary lapse in the case of a federal government shutdown.

Not every employee can pursue this option, however. Each state has individual rules for collecting unemployment, including (potentially) waiting periods to collect benefits and a requirement that the applicant show an active job search. Either or both may disqualify a furloughed worker. Further, furloughed workers who receive back pay for their time away from work will typically have to pay back any unemployment benefits they collected.

**Government Pay During a Furlough**

Furloughed employees have no automatic right to payment, however, historically Congress has paid all federal workers for the time they lost during a shutdown. While Congress has passed no law assuring workers of their back pay from 2018-19, leadership from both the Democratic and the Republican parties have indicated that they will do so.

All employees required to work during a shutdown are entitled to full back pay.

Contract workers, particularly those hired through third parties to work on government property, are also sent home during a furlough. If the agency which hires them has not yet gotten a budget, then it can't employ contractors any more than it can pay its staff. These workers will not receive back pay.

While it is unclear how many contractors, exactly, are affected by a government shutdown, one estimate from the New York Times suggests that it could number over 1 million.

**Legality of Excepted Employees**

As noted above, the government requires that certain classes of job continue whether the employees are getting paid. This includes roles such as air traffic controllers, FBI agents, Border Patrol agents and TSA personnel.

Courts have ruled that this is illegal.

During previous shutdowns, attorneys representing excepted employees have sued the government arguing that this practice violates the Fair Labor Standards Act. Courts have agreed. In 2017 a federal judge awarded double pay to every employee forced to work through the 2013 government shutdown.