

# Furloughs Versus Layoffs: Is There a Difference in California?

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Employers are facing difficult decisions during this COVID-19 pandemic. Many Californian businesses are facing difficult choices during this COVID-19 pandemic (also known as the coronavirus pandemic). Confronting losses in revenue and uncertainty in the future, businesses are evaluating their options for preserving their companies while maintaining their workforce.

CalChamber members are asking, “What is the difference between furloughing and laying off employees?” Essentially, a furloughed employee remains an employee but with reduced or eliminated work hours, while a layoff generally means a complete employment severance. (You may remember “furlough” when it was commonly used a decade ago during Governor Schwarzenegger’s administration when he furloughed state workers to address budgetary concern.)

However, under the current circumstances, the California Labor Commissioner may not see a real difference between a temporarily furloughed employee without any work hours and a laid-off employee.

In a pair of opinion letters ([Opinion Letter 1993.05.04](#) and [Opinion Letter 1996-05-30](#)), the Labor Commissioner stated that if an employer reduces an employee’s scheduled work hours to zero — and does not reschedule that employee within the same pay period — the employer has effectively laid off the employee, which triggers the final pay requirements under Labor Code section 201.

In addition to Labor Code section 201 concerns, if an employer with 75 or more employees ends up “laying off” 50 or more employees, it may trigger California Worker Adjustment and Retraining Notification Act (CalWARN Act) requirements, which Governor Newsom [temporarily modified last week](#).

Because of the unique circumstances surrounding the Governor’s CalWARN order and the pandemic, CalChamber continues to ask the Labor Commissioner for clear guidance on the final pay rules.

Employers need to stay in close contact with their legal counsel because of the constantly evolving legal atmosphere and other employment issues arising from COVID-19.

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