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Q: What is Furlough?

A: Furlough is a type of leave from work, usually mandatory, with no pay. It may be due to the economic conditions or special needs of a company, or in some states and the federal government, a furlough is used to cut costs in certain government offices. With a furlough, employees are allowed to come back to work once regular business resumes.

Some companies implement a cyclical furlough schedule, such as mandating a one-day furlough for the first Monday of every month. Other companies may offer optional furlough which can be negotiated in an employee's employment contract.

Q: What are the Differences Between a Furlough and a Layoff?

A: The main difference between a furlough and a layoff is that a furlough allows workers to return to their jobs. Some layoffs are temporary, and will recall workers to the job, but in cases where management decides the employees will not be recalled, the layoff becomes permanent.

Temporarily laid-off employees will usually be able to collect unemployment benefits and in some situations, may be able to keep their benefits coverage, e.g., medical and dental insurance, as an incentive to stay available for recall. For permanent layoffs, a severance package may be offered to those employees who were part of the company's reduction in force.

If a furlough is only for one week or less, employees will not be able to receive any unemployment benefits. States vary on unemployment benefits requirements; an employment attorney will be able to help you decipher the legalities of your own employment situation.

The implementation of a furlough or layoff can raise many issues, including those related to: exempt or nonexempt employees, wage and hour laws, collective bargaining obligations, contract claims, discrimination or retaliation issues, workers' compensation, loss of benefits, and issues related to the Worker Adjustment and Retraining Notification Act (WARN).

One of the more publicized issues is that of employment discrimination. Employers cannot furlough or layoff a group of employees based on any form of discrimination. If it appears an employer violates the law against workplace discrimination, they will be held liable, and employees who were discriminated against may be entitled to damages.

In cases of mass layoffs that result in at least a 50% work hour reduction in 6 months-time, a WARN notice will be required. The WARN Act provides employees with a 60 calendar-day advance notice of layoffs, in companies that have 100 or more employees.

Employee handbooks may have policies on how layoffs and furlough are to be addressed, and it may also be in your employment contract. There are many other issues pertaining to your rights as a furloughed or laid-off employee, which is why seeking legal counsel is highly encouraged.