

COVID-19 General Guidance for Employers

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(this is an excerpt from blog posts – complete versions can be found [here](#))

This is an exceptionally difficult time for many local businesses, particularly smaller businesses that lack the financial capital to outlast the business shutdown. The rapidly changing landscape makes it difficult to plan precisely. With the length of this current crisis uncertain most businesses have a very real concern about how to keep and pay for employees. The reality is that many businesses simply cannot pay employees for not working and most employees do not have enough personal time off to weather this crisis. What follows are several scenarios and options for businesses to consider.

Immediate Leave Options: Prior to long term planning it is important for both employers and employees to be aware of immediately available benefits. Washington’s Employment Security Department has many helpful [resources](#), including a helpful chart that may be shared with employees which provides a summary of various public and private options available.

Working From Home: If employees can work from home productively at the same or similar level as they were able to in the physical office, great! Employers should look at ways of improving such productivity through better internet enabled tools, meetings, methods, etc.

Reduced Hours, “Shared Work”: Many employers are likely encountering a slowdown in both the quantity of work and ability of their employees to devote a full day to such work. Rather than laying off employees either temporarily or permanently, a short-term reduction in hours may have benefits. Specifically, Washington State has a “Shared Work” program which helps fill the gap of pay that an employee lost due to a reduction in hours. This program runs through Washington Employment Security Department similar to regular unemployment benefits. Please check ESD’s Shared Work [program page](#) for eligibility and program information.

Temporary Layoffs, Standby, or Furloughed Employees: Washington also allows for a [temporary layoff or furlough](#) that is different than a traditional termination. Normally used for short downturns for a period of up to eight (8) weeks, now an employer can put an employee into “standby” for up to twelve (12) weeks due to COVID-19. The federal stimulus package, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), provides some benefits to furloughed workers. Rather than a permanent separation, putting an employee into standby status may be advantageous. However, we recommend employers carefully articulate the criteria they use to determine who is put onto standby. Whether it is seniority, productivity, or other business needs, any plan should be done equitably and transparently.

Normal Termination: Unless it is certain that the termination is permanent, the above methods are likely preferable. However, as this crisis extends, it may become necessary to convert the employee who is in Shared Work, or on standby to fully separated. This would allow for a greater time period they may access public benefits.

Paycheck Protection Program (PPP): The Paycheck Protection Program, which consists of \$350 billion in government-backed loans to businesses, is perhaps the most helpful CARES Act provision to provide effective assistance to small businesses. Eligible companies can apply to borrow up to 2.5 times their average monthly payroll costs to cover payrolls through June 2020. The application period for loans through existing SBA lenders opened on April 3, 2020 for small

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businesses and sole proprietorships. The application period for independent contractors and self-employed individuals will open on April 10, 2020. Regulated lenders other than existing SBA lenders will be available to make these loans on a rolling basis. The loans will be distributed on first-come, first-serve basis, so it is imperative to [apply](#) as soon as practicable. The program is available until June 30, 2020.

SBA Economic Injury Disaster Loan (EIDL) Program Expansion: The CARES Act also offers additional financial support to businesses experiencing reduced revenue by expanding the [Economic Injury Disaster Loan \(EIDL\) Program](#), which provides low-interest disaster loans. Businesses can also receive a \$10,000 advance on the loan, allowing businesses to obtain immediate working capital. One thing to note – although businesses can apply and obtain loans through both the Paycheck Protection Program and the EIDL Program, the loan funds received must be used to pay for different expenses.

This general guidance can be used as a framework for addressing several employment related questions as of April 6, 2020. As this is a quickly-changing landscape, we advise businesses to check the government websites and consult an attorney for the most up-to-date information and advice.