**Lay-Off/Return to Work Policy and Letter Templates**

***Important Notice:***

*Catapult offers this document as a template; however, Catapult’s area of expertise is solely NC, SC and Federal employment law.   If you employee workers in other states, you will need to review for compliance in other states.  If aspects of this document are unrelated to employment law, seek counsel on that particular topic.*

*Most of the policies are NOT required by any law or regulation, and by putting these policies into place you are asserting that you are choosing, as a company, to comply with the policy. If you do not comply with your company policy, there could be legal risk.*

*The information provided in this document does not, and is not intended to, constitute legal advice.  Instead, all information, content and materials provided are for general informational purposes only and may not constitute the most up-to-date legal or other guidance.  Readers should contact their attorney to obtain advice with respect to any particular legal matter.  No reader should act or refrain from action on the basis of any information, content or materials provided herein without first seeking legal advice.  Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation.*

**>** **Reduced Work/Slow-Down Policy**

**Overview**

[Company Name] seeks to staff its operations at a level where employees are able to perform their job tasks successfully at or around the normal scheduled hours assigned for their position. Determining staffing levels is based on many factors, to include external market forces as well as internal operations. There are occasions when internal or external factors may change and impact the workload or the overall financial wellness of the company.

Higher workloads may entail temporarily working additional hours or weekends or may require a change in scheduling or shifts. On the other hand, should demand, resources or required work levels decrease, the company will review options for reducing pay, hours, furloughing employees for periods of time, initiating a temporary lay-off, or reducing staff.

**Options that will be considered:**

The Company will review the following options as necessary:

* Reducing pay: Reduction in pay may be required for both exempt and non-exempt employees, and the positions/departments affected will be determined based on the nature of the internal and external factors affecting the business at that time. Reductions in pay will take place only with 24-hour written notice (minimum). Employees will sign and date an acknowledgement on the specific new pay rate and date of change, which will be retained in the employee file.
* Reducing hours permanently or temporarily in the particular departments or job affected. Reductions in hours generally are not made on a temporary basis for exempt employees, as their hours generally may be higher or lower than their normal schedule. If an exempt employee’s hours are reduced permanently for the position, the position will have redefined expectations for levels of work and pay will be reduced at that time. This will only happen in the case that business appears to have changed significantly for the foreseeable future. Reductions in hours may affect benefits. Notifications of changes in benefits will be made in that case.
* Furloughing employees for certain weeks or portions of weeks. Exempt employees generally will be furloughed only for full weeks, and furloughs for exempt employees will start at the beginning of a pay week as exempt employees will receive full pay through a combination of paid time off and regular salary (if no paid time off is available) for partial week furloughs. Hourly employees may be furloughed for any portion of a week. The company will provide at least 24 hours written notice (minimum) prior to the furlough whether paid time off will be mandatory, optional or prohibited for the furlough period. Such furloughs will not affect employee benefits. Employees will be expected to continue making payments or having payroll deductions for their portion of the benefit premium. Note: If you do not permit paid time off to be paid out in full upon termination, you should either create a furlough policy which defines that from the beginning of employment, or you should err on the side of optional or mandatory paid time off use during a furlough period. You have the option of covering employee premiums or permitting repayment at the time they are reinstated (although if the furlough becomes a permanent reduction in force, this could be unlikely). Review options if an employee fails to make benefit payments.
* Temporarily laying off employees: In the case of particular positions or departments having a reduction in workload or in the case of an overall business decline, the company will consider temporary lay-offs. These generally take place when there is some expectation or hope that the employee will be able to re-employee staff within the next 3-month period. A temporary lay-off will place the employee into an extended benefit period which will last for X months and which will affect the following benefits: X, X. Benefits will be continued through this period, as long as employees continue to make payments for their portion of the benefit premiums. Employees will be provided benefit termination paperwork, to include any notifications of COBRA options at the time that such benefits end. Exempt employees generally will be temporarily laid-off only at the beginning of a pay week as exempt employees will receive full pay through a combination of paid time off and regular salary (if no paid time off is available) for partial weeks. Hourly employees may be temporarily laid-off at any time. The company will provide at least 24 hours written notice (minimum) prior to the temporary lay-off whether paid time off will be mandatory, optional or prohibited for the temporary lay-off period. The company will attempt to give employees two weeks of notice prior to the lay-off period; however, this may not be feasible. Note: If you do not permit paid time off to be paid out in full upon termination, you should either create a furlough policy which defines that from the beginning of employment, or you should err on the side of optional or mandatory paid time off use during a furlough period. Talk to your broker and carriers about benefit eligibility, and keep this policy updated with future carriers. Review options should an employee fail to make benefit payments. This period could be more extensive or shorter-term. Oftentimes companies choose to reduce force if employee lay-offs last beyond the point of benefits being available to their employees. However, they may select another period if it makes sense for business needs. You have the option of covering employee premiums or permitting repayment at the time they are reinstated (although if the furlough becomes a permanent reduction in force, this could be unlikely).
* Permanent reductions in force: The Company may choose to permanently terminate employment of an employee or a group of employees. The employees will be terminated and will receive all normal termination communications, to include benefit termination and continuation (COBRA) information.

**WARN Act**

The Company will review federal and state WARN Acts and determine whether the organization must provide 60-day advance notice of a temporary lay-off or permanent reduction in force and will follow all applicable laws and regulations for other required notifications.

**Reinstatement**

The Company will send a letter to employees, often accompanied by emails and possibly phone communication, when employees are called to return to work. The Company will attempt to provide at least a week’s notice of the return-to-work date; it is the employee’s responsibility to monitor their personal mail, personal email and personal voicemail for notification.

Employees who are unable to return on that date should contact the Company’s Human Resources Department as far in advance of the return date as possible.

Employees who fail to return will be subject to standard progressive corrective action. Should the employee fail to return and fail to contact the Company for three full days of scheduled work, the employee will be presumed to have resigned their position.

(This policy should match any policy in your current handbook for job abandonment/no-show or no-call and should be consistent with past practice.)

* Temporary lay-offs of six months or more will require basic new hire paperwork to be completed for employees to become active employees again and to ensure that the Company’s files are up to date. The Company will not require documentation for a new I-9, unless the employee was placed in a termination status, but the re-activation process will require:
* Background check (the reinstatement will not be delayed due to the background check, but the reinstatement will be provisional until the background check has been received and reviewed). Employees will need to complete a background check authorization form upon return to work.
* New tax forms
* An update on address/emergency contact information
* New benefits paperwork

(None of the above is a legal requirement, so adjust as needed.)

**Lay-offs of under six months** will require new benefits paperwork if benefits have been ended. Employees will be instructed to update address or contact information as needed.

**Employees in a termination status** (at which time they would have been notified) need to go through the complete rehire process.

**>** **Temporary Lay-Off Letter – Catapult Template**

**This is a confirmation letter; communication should be in person (or by phone if not possible)**

In general, lay-offs must be conducted in positions/departments consistent with business necessity and decisions within a position should be made by date of hire or some other defensible selection process.  Discuss your plan with Catapult or your legal counsel prior to a lay-off.

[Date]

[Employee’s Name]

[Employee’s Address]

[Employee’s City, State and Zip Code]

Dear [name of employee]:

Due to a downturn in business for the foreseeable future and other business impacts, we are unfortunately in the position of having to reduce the number of staff to maintain business viability for what is expected to be a \_\_\_\_\_ week period.

This has been a difficult decision, but we believe that business will improve so that we can return you to your role at the end of that time.  Please: (explain what they need to do in terms of showing up or calling in after this period). We will re-evaluate the continuation of this lay-off before that time and if there are any changes, we will communicate with you.

During this period, you will/will not be allowed to use PTO or other paid time off.  (Add if permitting PTO: Be aware that any payments will count against the amount/start date of your unemployment benefits.)   You should apply for unemployment online (or by phone) through the DES office.

Your benefits will continue for a period of (list time from your SPD’s active employee or furlough/lay-off provision – or ask your broker), and benefit payments will be expected upon your return to catch-up on deductions.  (This may be changed to whatever you plan to do with benefits – Before changing your employer portion of the premium, check with your broker.)

At the end of that time, you will receive a benefits termination letter along with information about how to continue certain benefits.  (Note here if there is an EAP benefit which could help employee with mental stress during this difficult time.)

We are hoping that soon our organization will be whole again with all staff back at their regular positions.  We wish you all the best during this difficult time and are eager to answer any questions you may have.

Sincerely,

[Your Name], [Title]

[Phone Number]/[Email Address]

**>** **Reduction in Force Letter – Catapult Template**

**This is a confirmation letter; communication should be in person (or by phone if not possible).**

In general, lay-offs must be conducted in positions/departments consistent with business necessity and decisions within a position should be made by date of hire or some other defensible selection process.  Discuss your plan with Catapult or your legal counsel prior to a lay-off.

[Date]

[Employee’s Name]

[Employee’s Address]

[Employee’s City, State and Zip Code]

Dear [name of employee]:

This letter is to confirm that due to a downturn in business for the foreseeable future and other business impacts, we are unfortunately in the position of having to reduce the number of staff to maintain business viability, and your position has been impacted.

This has been a difficult decision, but if business should improve, we look forward to hearing from you should you see a position at our company fitting your skills and experience.  In the case that you do apply, we ask that you directly email myself as well to notify me of your application in order that it may be given special consideration.

We provide the following information to you to help you during this time; however, you can always call with questions for us.

Your last day worked is: \_\_\_\_\_\_\_\_

Your benefits end date is: \_\_\_\_\_\_\_\_\_ (talk to your broker since this may be different for different benefits)

You will receive COBRA paperwork which will allow you to apply for continued benefits for certain plans and we will also provide you with conversion paperwork for other plans as applicable.

COBRA continues benefits; however, you will be required to pay the full cost of the benefits, not just the employee portion.

Your paid time off will be paid out to you along with your final paycheck.  This amount will be equal to (whatever your policy is on PTO payout).

You should apply for unemployment online (or by phone) through the DES office.

Again, we express our deepest regret that your position is being eliminated at this time.  We wish you all the best during this difficult period and are pleased to answer any questions you may have.

Sincerely,

[Your Name], [Title]

[Phone Number]/[Email Address]