



# Guide to Recalling Employees

## KNOW YOUR LEGAL OBLIGATIONS

It is crucial that employers are aware of their legal obligations regarding temporary layoffs or leaves. Employers need to know the allowable duration and recall employees within that period. If not, those temporary layoffs or leaves become permanent—that is, terminations. Some jurisdictions extended their temporary layoff period in response to the exceptional circumstances of the COVID-19 pandemic, so ensure you know the applicable recall period and are bringing the employee back within this timeframe. It is also a good idea to review the documentation that you issued the employee at the start of the layoff or leave, such as a [Temporary Layoff Letter - Ontario](#) (also available for other jurisdictions), and any applicable provisions regarding temporary layoffs in your employment contracts to ensure you are meeting these requirements.

Requirements for providing notice of recall to employees vary by jurisdiction. While some only require specific notice periods, other specify the form of notification to the employee, such as providing written notice. Review the relevant legislation to determine your obligations. Regardless of the legislated requirements, it is best practice to give employees as much notice as reasonably possible of their recall and to provide this notice in writing, requesting an answer by a specified date. But this is not the end of your legal obligations.

## PLAN FOR HEALTH AND SAFETY MEASURES

While many jurisdictions have relaxed their COVID-19 public health measures, employers must still take all reasonable precautions in the circumstances to protect the health and safety of employees. Review any ongoing public health measures applicable to your industry and implement them in the workplace. These measures need to be in place before recalling employees, as they can affect your recall plans. For example, capacity limits or requirements for physical distancing may restrict the number of employees you can recall. Employees should be informed of these measures before their return in their recall letter.

Informing employees of workplace health and safety measures before their return can also help address concerns about exposure to COVID-19 and reduce work refusals related to the pandemic. Use a [Preventing COVID-19 in](#)

[the Workplace Policy](#) to outline the measures that will be in place to protect employees from COVID-19 exposure at work. If an employee expresses concern about these measures, have a private conversation with them to reiterate the measures and address any ongoing worries. Once you have your health and safety measures in place, you can determine the recall order and role details.

## DETERMINE RECALL ORDER AND EMPLOYMENT CONDITIONS

It may be impractical or impossible to recall all employees at once. In these cases, you need to determine an order of recall for employees. It is advisable to recall employees based on order of layoff or leave, as this can help ensure temporary layoffs and leaves don't exceed allowable lengths and become terminations. You can use other criteria to determine the order of recall, such as length of service, but you must have objective reasons for doing so. This decision should not be based on factors like family status, age, gender, ethnicity, and so on that are discriminatory and could violate employees' human rights.

You will also need to determine what work the recalled employees will do. Many businesses changed their operations in response to the COVID-19 pandemic. Review any changes within your organization to determine whether you are recalling employees to their previous position at their previous hours. Changes to business hours may affect shifts and scheduling, or you may want to recall to different roles due to changes in demand. If you are making any changes, you need to be careful; fundamental changes to employment conditions like hours of work or job duties can result in constructive dismissal claims. It is strongly recommended that you seek legal advice before making these changes. Once you sort out these details, inform the employee using a [Return-to-Work Letter \(COVID-19 Recall\)](#).

## ADDRESS REFUSALS

Just because you recall an employee does not mean they are coming back to work. If an employee refuses your notice of recall, you need to determine why. One common scenario is that the employee found alternate employment

during their layoff or leave period. In this case, you need to determine whether the employee intends to resign from that position and return to work for you or not. It is also important to consider that employees' personal circumstances may have changed. For example, some individuals have taken on additional childcare or eldercare responsibilities and may need time to make care arrangements before they return. These scenarios demonstrate why it is best to provide as much notice as reasonably possible when recalling employees. In some jurisdictions, legislation dictates the number of days employees need to return to work after being issued a recall notice, which may complicate these scenarios. Another possible scenario is that some employees may simply not respond to your recall notices. If an employee does not respond, you should follow up and make reasonable efforts to contact the employee. Try contacting them by phone; if you receive no answer, send a [Notice of Recall Letter \(Failure to Respond to Phone Call\)](#). If you are still unable to reach the employee, contact [Live HR Advice](#) for answers to difficult questions, and seek legal advice to determine your next steps and ensure you have met all legal obligations.

## FINAL THOUGHT

Key takeaways to remember.

As COVID-19 restrictions ease across the country, employers are ramping up their temporary layoff or COVID-related leave recalls. With careful planning of the key considerations outlined above, you can get your employees back to work and back to business as usual. As you prepare to recall employees, simplify your workflow by finding all the resources you need in one place. With [HR Fundamentals](#), you get unlimited access to thousands of HR documents, templates, articles, and more. Customize letters or policies for any need and get access to articles and videos with helpful tips and professional advice. To learn more about HR Fundamentals, chat with a representative today!

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