OVERVIEW:

This document summarizes provisions in the Coronavirus Aid, Relief and Economic Security Act (the CARES Act all employers) and the Families First Coronavirus Response Act (the FFCRA employers under 500 employees), that may be applicable to faith-based employers such as the North American Division of Seventh-day Adventists.

The CARES Act enables all employers to apply for loans to continue paying employees and maintaining operations. This will be further explained in this document. The FFCRA is an emergency paid sick leave act that requires *eligible private sector employers to provide employees with paid sick leave for specific reasons related to COVID-19. The Department of Labor’s Wage and Hour Division (WHD) administers and enforces the new paid leave requirements and these provisions are in effect through December 31, 2020. The continued application of the provision of both the CARES Act and the FFCRA will be subject to further review on or around the expiration date provided by the Legislation.

*Eligible employers under FFCRA are those with 500 or fewer employees. This includes all faith-based North American Division of Seventh-day Adventists employers with 500 or fewer employees.

Unemployment

What is the Pandemic Unemployment Assistance Program (PUAP)?

The CARES Act creates a temporary Pandemic Unemployment Assistance program (“PUAP”) to provide payment to those not traditionally eligible for unemployment benefits and who are unable to work as a direct result of COVID-19. The Act also provides enhanced benefits for all workers eligible for unemployment. Unlike the FFCRA, which only applies to private employers with fewer than 500 employees, the CARES Act applies to all employers regardless of size.

Unemployment benefits are State-based programs and the eligibility criteria, amount of benefits and funding (taxes or premiums) for the coverage depend on the State involved.

**Is there a recommended process for notifying employees of their eligibility for unemployment in the event they are temporarily placed on unpaid leave of absence?**

The Federal government is allowing many states to have expanded and or revised unemployment-benefits coverage as part of their response to the COVID-19 outbreak. For example, this allows states to pay benefits where an employer temporarily ceases operations due to COVID-19, preventing employees from reporting to work. There may now be a process in some states for employers to notify the state of their employees’ need for unemployment benefits. This is known as ‘employer-filed claims’. Employers may contact their state directly for guidance on how to initiate claims and how to advise their local employees.

The following link provides a list of state programs and benefits related to unemployment. [https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/January2020.pdf](https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/January2020.pdf)

Also, the following is a link to unemployment benefits finder: [https://www.careeronestop.org/localhelp/unemploymentbenefits/unemployment-benefits.aspx](https://www.careeronestop.org/localhelp/unemploymentbenefits/unemployment-benefits.aspx)

The CARES Act expands and enhances the unemployment benefits available under State programs by

- expanding the availability of benefits to individuals who are not covered by a State program;
- extending the time period for State benefits to make them available for up to 39 weeks in total, expiring December 31, 2020,
providing for an additional $600 weekly payment available for up to four months (expiring July 31, 2020), allowing temporarily for a higher rate for low-wage workers, and

• adding a short-term compensation benefit for workers who have not been laid off but whose employment and wages have been reduced due to COVID-19.

For more details on the CARES Act see: http://nadsecretariat.org/caresactsumm.

Payroll Protection Program

What is the PayCheck Protection Program (PPP)?

The PPP loan program is designed to keep small businesses, including qualifying non-profit organizations, afloat during mandated Coronavirus Disease 2019 (“COVID-19”) related closures.

This new loan program is based on the existing general business loan program of the Small Business Administration (“SBA”) and will make potentially forgivable loans available to qualifying small businesses. The loan program is known as the “7(a)” program and not based on the SBA disaster loan program.

Additional details will be provided as the SBA drafts implementing regulations, which the CARES Act requires to occur within 15 days.

The answer questions about the PPP and many other questions about CARES Act can be found at: http://nadsecretariat.org/caresactsumm.

Please take note of the following statement from OGC: “At the present time, there are no strings attached to the legislation that would be objectionable to the Seventh-day Adventist organization. However, the Office of General Counsel urges caution if you plan to take advantage of any of these benefits as this is a developing situation and expectations and legislation may change quickly. It is encouraged that organizations be measured in their use of these resources to hedge against too heavy a dependence on government resources. If your organization is considering or does participate in the SBA
program you may reach out to either Tom Wetmore (wetmoret@gc.adventist.org) or Todd McFarland (mcfarlandt@gc.adventist.org) for more information.”

**Payroll Tax Credits**

There are several forms of payroll tax relief now available. In addition to the potential payroll tax deferral mentioned in the above question (and explained in the link), there are two possible tax credits available through the regular payroll tax processing through the IRS:


- The tax credit for employee retention under the CARES Act that is explained in great detail here: https://www.irs.gov/newsroom/irs-employee-retention-credit-available-for-many-businesses-financially-impacted-by-covid-19
Healthcare and Supplemental Benefits

The following chart displays how the CARES Act and FFCRA affect our current health and supplemental benefit offerings. This chart is subject to further review and amendment based on new and emerging information:

<table>
<thead>
<tr>
<th>BENEFIT TYPE</th>
<th>Protected Leave (FMLA)</th>
<th>FFCRA-COVID</th>
<th>Paid Leave - Non-FMLA</th>
<th>Unpaid Leave - Non-FMLA</th>
<th>Status</th>
<th>End of Leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare - Medical/Deﬁnition of Disability (Employee Paid)</td>
<td>Continues for up to 12 weeks as determined by employee. Some states extend</td>
<td>Continues for up to 12 weeks as determined by employee.</td>
<td>Continues as long as contributions are paid.</td>
<td>End of the employee’s employment or the end of the paid leave period.</td>
<td>End of the employee’s employment or the end of the paid leave period.</td>
<td></td>
</tr>
<tr>
<td>End of Disability (Employer Paid)</td>
<td>Continues as long as contributions are paid.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Term Disability (Employer paid)</td>
<td>Continues for up to 60 days from date of leave.</td>
<td>Continues as long as contributions are paid.</td>
<td>Continues up to 60 days from the date of leave.</td>
<td>End of the leave period or the end of the benefit period.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplemental Life and AD&amp;D (Voluntary - Employee Paid)</td>
<td>Continues for up to 60 days from the date of leave.</td>
<td>Continues as long as contributions are paid.</td>
<td>Continues for up to 60 days from the date of leave.</td>
<td>Continues to the end of the benefit period.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hartford Accident &amp; Sickness Insurance (Voluntary - Employee Paid)</td>
<td>Ends 6/30/20</td>
<td>Continues as long as contributions are paid.</td>
<td>Continues for up to 60 days from the date of leave.</td>
<td>Continues to the end of the benefit period.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flexible Spending Accounts (FSA) (Employee Paid)</td>
<td>Continues as long as contributions are paid.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you have any questions on the healthcare or other benefits that ARM administers, please feel free to contact us via email: Healthcareeligibility@adventistrisk.org or phone 301-453-6969.
Leave Related Matters

Important Definitions


“Job Protected Leave – FMLA of 1993” – means job protected and unpaid for qualifying medical and family reasons. If paid, this leave is typically funded by employee through accrued banks of leave.

State and local laws may impose additional requirements. Be sure to your state-specific requirements of employers related to the COVID-19 response.

How does FFCRA compare with FMLA? What coordination of benefits should be considered?

Compared to the FMLA, FFCRA expanded the qualifying reasons for taking medical leave and mandated paid sick leave. If an employee is taking paid sick leave because they are unable to work or telework due to a need for leave because they (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, they will receive for each applicable hour the greater of:

- their regular rate of pay,
- the federal minimum wage in effect under the FLSA, or
- the applicable State or local minimum wage

In these circumstances, they are entitled to a maximum of $511 per day, or $5,110 total over the entire paid sick leave period.
If the employee is taking paid sick leave because they are: (1) caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (2) caring for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (3) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, they are entitled to compensation at \( \frac{2}{3} \) of the greater of the amounts above.

In these circumstances, they are entitled to a maximum of $200 per day, or $2,000 over the entire two-week period.

For more details visit: [https://www.dol.gov/agencies/whd/pandemic/ffcra-questions](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)

**Can an employee stay home under FMLA leave to avoid getting coronavirus?**

The FMLA protects eligible employees who are incapacitated by a serious health condition, as may be the case with an employee who has coronavirus or is needed to care for a spouse, parent, or child with coronavirus. The FMLA expansion provisions of the FFCRA authorize FMLA leave for employees who are needed to care for children whose schools or child care centers are closed because of coronavirus, or whose child care providers are unable for the same reason.

Leave taken by an employee for the purpose of avoiding exposure to coronavirus is not protected under the FMLA, even in its expanded version. However, if the employee, employee’s spouse, parent or child is self-isolating under an order of a federal, state or local health authority or as recommended by a health care provider, the employee may be eligible for paid leave under the Emergency Paid Sick Leave Act. (applicable only to those employed by qualifying employers defined by the FFCRA)
Regardless of leave entitlement, employers must encourage employees who have been exposed to coronavirus to stay home and should consider flexible leave policies for their employees in these circumstances.

For more Coronavirus Guidelines for Employers visit https://www.constangy.com/coronavirus#faqs

Is all leave under FMLA paid leave now?

FMLA has been and continues to be job-protected leave which typically was not required by the regulation to be paid leave. All leave under FMLA is not paid leave due to the enactment of FFCRA. The only type of family and medical leave that is paid leave that is required is expanded family and medical leave under the Families First Coronavirus Response Act: Emergency Family and Medical Leave Expansion Act Requirements when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons. (applicable only to those employed by qualifying employers defined by the FFCRA)

May an employee take 80 hours of paid sick leave for self-quarantine and then another amount of paid sick leave for another reason provided by the Emergency Paid Sick Leave Act?

No. An employee may take two weeks or ten days (80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.
The employer may not require the employee to substitute any accrued vacation leave, personal leave or medical or sick leave, when leave is needed for qualifying reasons of the Emergency Paid Sick Leave Act.

If an employee is at home with a child because his or her school or place of care is closed, or childcare provider is unavailable, is the employee entitled to get paid sick leave, expanded family and medical leave, or both; provided the employee is employed by qualifying employer defined by the FFCRA?

An employee may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. An employee may take both paid sick leave and expanded family and medical leave to care for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period covers the first ten workdays of expanded family and medical leave, which is otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless the employee elects to use existing vacation, personal, or medical or sick leave under the employer's policy. After the first 10 workdays have expired, the employee will receive ⅔ of their regular rate of pay for hours they would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

For more details visit: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions

Occupational Safety and Health Administration
Do employers have to report a positive case of COVID-19 to OSHA?

No, COVID-19 cases are not automatically reportable to OSHA. COVID-19 is work-related if it is more likely than not that the work environment either contributed to or caused the illness. COVID-19 is probably not work-related under this test if an employee lives with someone who has COVID-19 or has contact away from work with someone who has been
diagnosed with COVID-19. The only COVID-19 cases that must be reported to OSHA are work-related:

- Fatalities that occur within 30 days of exposure to COVID-19;
- Admissions to a hospital for treatment or care within 24 hours of exposure to COVID-19

A COVID-19 case must be recorded on an OSHA 300 Log if:

- The disease has been diagnosed by a licensed health care professional;
- The condition is work-related; and
- The care results in medical treatment, restricted work activity, days away from work, loss of consciousness, and/or death.

For more information regarding your OSHA and COVID-19 visit www.osha.gov

**Notice Requirements**

**Are employers required to give notice of the FFCRA to their employees?**

Yes. FFCRA Notice to employees must be posted by April 1, 2020. This notice must be available to employees in physical facilities or those on telework arrangements. The following links take you directly to the required notice to be posted and FAQs regarding posting: [https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf) [https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions](https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions)

**What notice are employers required to give employees if the employer must temporarily suspend operations?**

Under the Worker Adjustment and Retraining Notification (WARN) Act, most employers with 100 or more employees are to provide notification 60 calendar days in advance of facility closings or mass layoffs. Assignments of temporary unpaid or temporary paid leave of absences are not one and the same as facility closings or mass layoffs. Due to the nature of the COVID-19 outbreak, state and federal stay-at-home notices may prompt employers to suspend operations and could potentially relax the requirements of WARN. However, if an employer is considering mass layoffs, please begin working with a local employment
Adventist Retirement 403(b) Plan
COVID-19 Retirement Plan and Service Crediting Issues

Unpaid Leave of Absence. North American Division employees on unpaid leaves of absence receive no employer contributions to the Adventist Retirement Plan (“Plan”). Sections 4.04 (Basic Contributions) and 4.05 (Matching Contributions) of the Plan state that a participating employer shall make contributions for eligible Employees. Employee is defined in Section 2.16 of the Plan as an individual who is employed by a participating employer and is receiving remuneration for services rendered to that participating employer. If an individual is on an unpaid leave of absence, he or she is not receiving remuneration for services rendered and therefore no employer contributions are made during the period of the unpaid leave. An employee on an unpaid leave of absence is also unable to make salary reduction contributions to the Plan because he or she has no compensation to defer.

Paid Leave of Absence. The 403(b) plan document language is not clear on whether contributions should be made for North American Division employees not working but being paid their full salaries. Although these employees are not rendering current services to their participating employer, we believe employer and employee contributions should continue—it appears that they are being paid for services rendered to their employer, but not for current services.
Reduction in Hours of Work. The impact on retirement plan contributions for North American Division employees participating in the Plan whose hours of work are reduced below half time will depend on the NAD Policy Resolution election made by their respective employer. Basic contributions will not need to be made in this situation, but matching contributions may need to be made, based on the employee’s reduced compensation.

Special Payments to Employees on Unpaid Leave. If the North American Division makes special payments to employees on unpaid leaves of absence to assist with living expenses, the payments will be considered “irregular compensation payments” and are not included in Plan compensation (See Section 2.12(b) of the Plan). No employer or employee contributions can be made based on these payments.

Federal Paid Sick Leave Payment. The federal government requires employers to provide up to 80 hours of paid sick leave to certain employees for coronavirus-related absences. Regular sick leave is included in the Plan’s definition of compensation (see page 14 of the Adventist Retirement Plan Administrative Manual), so these payments would also be considered compensation and employee salary reduction contributions and employer basic and matching contributions are made on these amounts.

Federal Paid FMLA Leave. The federal government requires employers to pay up to 10 weeks of 2/3 salary to certain employees if such employees are unable to work (or telework) because their children’s schools or child care centers are closed for coronavirus-related reasons. The Plan document and Administrative Manual are silent on whether this type of paid leave is included in Plan compensation. We believe it is appropriate to consider this pay “irregular compensation” and as such it would not be included in Plan compensation. No employee or employer contributions would be made on these payments.
Service Credit. The NAD service crediting policy requires employees to be remunerated in order to receive service credit. If an employee is on an unpaid leave of absence, the current policy would not allow service credit to be granted with respect to such absence.

Adventist Retirement 403(b) Plan CARES Act Changes

Coronavirus Distributions (Permissive, Not Mandatory)

1. No 10% early withdrawal penalty for coronavirus-related distributions of $100,000 or less ($100,000 is the aggregated amount of all distributions from all plans maintained by the employer and any controlled group member) made in 2020 to an individual:

   - who is diagnosed with SARS-CoV-2 or COVID 19 (the “coronavirus”) by a test approved by the Centers for Disease Control and Prevention,
   - whose spouse or dependent is diagnosed with the coronavirus by such a test,
   - who experiences adverse financial consequences as a result of:
     - being quarantined, being furloughed or laid off, or having work hours reduced due to the coronavirus,
     - being unable to work due to lack of child care due to the coronavirus,
     - closing or reducing hours of a business owned or operated by the individual due to the coronavirus, or
     - other factors as determined by the Secretary of the Treasury.

2. Plan administrators may rely on employee certification that the employee satisfies the above conditions in determining whether a distribution is a coronavirus-related distribution.

3. Coronavirus-related distributions will not be treated as eligible rollover distributions subject to the rollover notice and 20% mandatory withholding rules.
North American Division of Seventh-day Adventists

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based in the United States of America (pages 1-15) and Canada (pages 16-20)

4. Income will be taxed over 3 years. Unless the participant elects otherwise, a coronavirus-related distribution required to be included in gross income shall be included ratably over the 3-taxable year period beginning with the taxable year of the coronavirus-related distribution.

5. Distributions may be repaid for up to 3 years after the distribution date, as long as the plan permits rollover contributions into the plan.

   Voted by Adventist Retirement Board to amend the Adventist Retirement Plan document to allow coronavirus distribution up to $100,000 through December 31, 2020

Increase in Maximum Loan Amount (Permissive, Not Mandatory)

1. From March 27, 2020 to September 23, 2020, a participant’s coronavirus-related loan maximum is the lesser of $100,000 (instead of $50,000) or 100% (instead of 50%) of the present value of the participant’s vested 403(b) plan account.

2. In the case of an outstanding loan, participants will have an additional year to make loan repayments, if the due date for any repayment occurs from March 27, 2020 through December 31, 2020, and the participant would qualify for a coronavirus-related distribution. Subsequent loan repayments will be adjusted to reflect the delay in the due date and will include any interest accruing during such delay.

   Voted by Adventist Retirement Board to not modify the Adventist Retirement Plan document loan provisions.
Temporary Waiver of Spousal Consent

Because of the difficulty in obtaining notarized spousal consent in areas with “stay at home” mandates, spousal consent for plan distributions and loans is temporarily waived. This waiver will only apply during the coronavirus outbreak.

**Voted by Adventist Retirement Board** to amend the Adventist Retirement Plan document to waive spousal signature/consent and notary witness.

Temporary Waiver of Required Minimum Distribution (RMD) Rules

RMD requirements will not apply for calendar year 2020, including RMDs for plan participants already receiving payments and participants who have a required beginning date in 2020. RMDs made before 2020 are not eligible for this waiver. We expect the Internal Revenue Service to issue guidance soon regarding how 2020 RMD amounts already distributed will be treated.

**No vote required by Adventist Retirement Board** to make this provision effective.

Reminder to Plan Participants

All distributions taken from the plan now decrease the amount of money available to provide for you in retirement.

The unprecedented circumstances we find ourselves in have prompted the federal government to enact legislation that allows extraordinary access to retirement funds. The link below provides information on how that can be done. It is however strongly urged that individuals who wish to access their retirement funds according to these new regulations do so with **EXTREME CAUTION**! Please be advised that accessing retirement
funds before your retirement date can have dire consequences and leave you with significantly reduced resources when you actually need them upon retirement. The NAD Retirement Plan, and the Seventh-day Adventist Church organization cannot make up any deficiency created by an early withdrawal. We recognize certain circumstances may demand early use of these funds. We simply ask that you do so as a **LAST RESORT** and with **EXTREME CAUTION**.

**MATTERS RELATED TO CANADA**

1. A summary of the recent measures taken by the Canadian federal government re covid crisis;
2. A link with respect to a federal work-share program to keep employees from being laid off;
3. A link to information regarding an Employment Insurance plan to top up EI when forced to lay off employees bc of covid;
4. A link to information with respect to lay-offs which includes a listing of time periods that shift a lay-off into termination.

1. **Please find below a summary of recent actions taken by the Canadian federal government to mitigate the loss to employers with respect to covid:**
   
   - The federal government is changing course on its 75% wage subsidy, revealing businesses both large and small will be eligible for the program if their revenue has declined 30%.
   - The Canada Emergency Wage Subsidy program was originally aimed at helping small businesses keep workers on the payroll. But Ottawa will now cover up to 75% on first $58,700 an employee earns regardless of the size of the company he or she works for, Prime Minister Justin Trudeau said Monday (March 30) during his daily media briefing outside his home in Ottawa.
• “I want to offer a word of caution to businesses: we are trusting you to do the right thing. If you have the means to pay the remaining 25% that’s not covered by the subsidy, please do so. And if you think this is a system you can take advantage of or game — don’t,” he said.
• “There will be serious consequences for those who do.”
• The prime minister said the wage subsidy program requires trust and good faith from all parties involved, and that a verification system will be developed in the coming weeks.
• Government is still developing background documents explaining the technical details of the program.
• The prime minister could not offer an estimate on the cost of the Canada Emergency Wage Subsidy program, but instead said Finance Minister Bill Morneau would offer more details of the total cost on Tuesday.
• Non-profits and charities are also eligible for the program.
• The federal government announced Friday it was boosting the wage subsidy up to 75% after originally unveiling a three-month, 10% subsidy March 18.
• Ken Peacock, chief economist of the Business Council of B.C., told Business in Vancouver the big boost will have the intended impact of retaining far more workers than what was previously on the table.
• “I still think we’re going to see a nasty recession, but the wage subsidies announced by the government do help mitigate a more dire economic outlook,” he said after the revisions were announced Friday.
• “B.C. will leverage federal government packages to a greater extent in proportional terms than many other provinces just because of our orientation towards more small and medium-sized businesses.”
• The revised wage subsidies will be backdated to March 15.
• The federal government also introduced on Friday the $25 billion Canada Emergency Business Account, which allows banks to offer $40,000 loans guaranteed by the government to eligible businesses that will come interest-free for the first year.
• Under certain conditions, up to $10,000 of the loan will be forgivable.
• Export Development Canada and the Business Development Bank of Canada will be receiving $12.5 billion in additional funding to help small businesses with cash flow,
While the federal government said it’s deferring GST and HST payments as well as duties and taxes owed on imports until June 30.

- The federal government said it would be the equivalent to $30 billion in interest-free loans for businesses.
- Meanwhile, B.C. Health Minister Adrian Dix and provincial health officer Bonnie Henry will provide an update Monday on COVID-19’s spread throughout the province.
- On Saturday the provincial government revealed B.C. had 92 confirmed new cases of COVID-19 for a total of 884.
- There has been one new death, bringing the total to 17, and one additional long-term health-care facility has had an infection.
- That’s 12 long-term care homes now that have had at least one infection of either a resident or staff member.
- As of Saturday, 81 patients with COVID-19 are in hospital and 52 in intensive care.
- Henry said the spike since Friday is not unexpected and is partly a reflection of increased testing.
- B.C. has been doing more than 3,000 tests per day.

2. Please find a link with respect to the Canadian federal government’s goal to support employers and to keep employees at work.

3. Please find below a link that provides information with respect to a plan for employers to top up EI during a lay-off.

4. Please find below a list of time periods that shift a lay-off into termination and accompanying link for further information.
COVID-19 continues to have an immense impact on Canadian workplaces resulting in uncertain consequences for the workplace. Given the economic challenges that continue to grow, either as a result of voluntary or forced operational shutdowns, many employers are implementing, or at least considering, temporary layoffs. Here are the key legal considerations when dealing with temporary layoffs.


**How Long Can a Temporary Layoff Last?**

Temporary layoffs are just that – temporary. If they exceed the statutory limit, then an employer will generally be deemed to have terminated an employee’s employment unless an exception applies. Key statutory time limits are as follows:

- In BC, temporary layoffs cannot exceed 13 weeks in a consecutive 20-week period.
- In Alberta, temporary layoffs cannot exceed 60 days in a 120-day period.
- In Ontario, temporary layoffs cannot exceed (a) 13 weeks in any period of 20 consecutive weeks, or (b) more than 13 weeks in any period of 20 consecutive weeks but less than 35 weeks in any period of 52 weeks where:
  - the employee continues to receive substantial payments from the employer, or
  - the employer continues to make payments for benefits or a legitimate retirement or pension plan, or
  - the employee receives supplementary unemployment benefits, or
  - the employee would be entitled to supplementary unemployment benefits but isn’t receiving them because they are employed elsewhere, or
  - the employer recalls the employee within a time frame approved by the Director of Employment Standards or as set out in an agreement with an employee not represented by a trade union, or where the employee is represented, as set out in an agreement with the trade union.
- In Quebec, a layoff is a temporary layoff if it is less than six (6) months.
- Federally under the *Canada Labour Code*, a temporary layoff is:
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- a layoff of 3 months or less, or
- a period of more than 3 months and:
  - the employer notifies its employees before the layoff that they will be recalled on a fixed date, which is not longer than 6 months, and the employees are recalled on that date;
  - the employee continues to receive payments during the term of the layoff from their employer in an amount agreed on by the employee and their employer;
  - the employer continues to make payments for the benefit of the employee to a pension plan that is registered under the Pension Benefits Standards Act, 1985, or under a group or employee insurance plan;
  - the employee receives supplementary unemployment benefits; or
  - the employee would be entitled to supplementary unemployment benefits but is disqualified from receiving them pursuant to the Employment Insurance Act.

- Under the Canada Labour Code, any periods of re-employment that are less than two weeks in duration are not included in calculating the length of the layoff. Layoffs under a collective agreement where the employee retains a right of recall are also permissible layoffs.

MATTERS RELATED TO SERVICE CREDIT IN CANADA

**Continuous Service:** Continuous uninterrupted service from the most recent date of hire. A disability qualifying for benefits under the Employer’s short term and/or long-term disability plans or for full benefits under a government worker’s compensation plan will not cause a break in continuous service.

**Credited Service:** Years of Continuous Service in Canada for full-time employees. Proportionate years of Continuous Service for part-time employees, based on actual time worked.
Resources:

In addition to these resources, please continue to monitor Federal, State and Local government health authorities for new and emerging information relative to employers.

United States Department of Labor: https://dol.gov
North American Division: https://nadadventist.org
Seventh-day Adventist Church – Canada: https://adventist.ca
U.S. Department of State travel advisory page link: https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/

The information provided in this document is not a substitute for legal advice. While it generally discusses employment laws and regulations, it will not directly advise the reader on the application of law or regulation, relative to the reader’s particular facts. In all cases, consider whether consulting with an Employment Law Attorney may be necessary.

Prepared by: The North American Division of the Seventh-day Adventists’ Secretariat, Treasury and Human Resource Services, Adventist Retirement, Office of General Counsel, the Seventh-day Adventist Church in Canada – General Counsel, and Adventist Risk Management | April 2020.
Inquiries may be directed to the respective department responsible for the area of content.