

A Practical Guide to Offboarding Employees

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Table of Contents

01	A Practical Guide to Employee Offboarding	2
02	Offboarding Resigning Employees	4
03	Terminating & Laying Off Employees	13
04	Handling a Death in the Workplace	27
05	Justworks Can Help	35



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Click a section title to skip to it, and click the ☰ icon in the header of any page to return to the Table of Contents. The 🖱️ icon indicates a clickable page.



INTRODUCTION

A Practical Guide to Offboarding Employees

Let's make sure we're on the same page from the start — when we talk about offboarding, we're referring to the process that leads to the formal separation between an employee and a company. Offboarding should occur regardless of the employee's voluntary or involuntary departure, but the steps can differ depending on whether the employee is resigning, retiring, or being terminated.

Whether an employee has left your company for another opportunity, was let go, decided to stop working,

or sadly passed away, the required paperwork can be overwhelming. Everything from final pay requirements to benefits administration and exit interviews must be handled.

To support you and your company through this complex transition, we've compiled this helpful guide. This interactive eBook will simplify the process of offboarding employees, no matter what level they're at.

Please note, this guide is not intended to be, and should not be construed as, legal advice for any particular situation. It's best to consult with counsel to ensure compliance with all applicable offboarding requirements. When it comes to sensitive legal situations, consult with counsel on the best course of action.



Specifically our guide will walk you through each step and how best to:

- Acknowledge a resignation or clearly communicate a termination decision and indicate clear next steps
- Ask the right questions in an exit interview
- Determine the best style of exit interview fits your company
- Offer support after a death in the workplace
- Pay the family of a deceased employee
- Provide employees with specific feedback when they are underperforming, with the goal being to avoid termination altogether
- Tie up any other loose ends before an employee leaves

Ready? Let's get started.

* We built this guide and checklist to make offboarding employees easier for your business.



Offboarding Resigning Employees

Resigning Employees Offboarding Checklist

Use this checklist as a starting point to help ensure you handle a resigning employee's paperwork and logistics properly.

resigning



1. Manage initial steps for an employee resignation

- ☐ **Receive a resignation letter**
- ☐ **Acknowledge the resignation with a written letter** ([sample on page 9](#))
- ☐ **Collect all applicable documents relating to the employment relationship, including (if applicable):**
 - ☐ Offer letters and/or employment agreements
 - ☐ Determine compensation owed to the resigning employee
 - ☐ Gather any immigration documents to determine any impact on employment status
 - ☐ Debrief the employee on remaining benefits, such as:
- ☐ **Debrief the employee on remaining benefits, such as:**
 - ☐ Consolidated Omnibus Budget Reconciliation Act (COBRA):
Ensure any notice required by COBRA is provided to the departing employee (for [Justworks customers](#), COBRA information is provided directly to COBRA-eligible employees).
 - ☐ Retirement and/or life insurance plans
 - ☐ Paid time off balances
- ☐ **Determine where/when the last paycheck will be sent, or hand the employee their last paycheck in person** (in accordance with applicable law)
- ☐ **Provide the employee with additional documentation, where required by state or local law:**
 - [New York](#)
 - [California](#)
 - [Massachusetts](#)
 - [Colorado](#)
 - [District of Columbia](#)



- ☐ **Notify managers and team members as appropriate, preferably in person**
- ☐ **Notify necessary customers or other businesses, as applicable**

2. Transition the work

- ☐ **Onboard the employee's replacement or, in the interim, determine who will assume the resigning employee's responsibilities**
- ☐ **Have the departing employee write up outstanding job details and duties, including:**
 - ☐ Ongoing tasks
 - ☐ Current and upcoming projects and deadlines
 - ☐ Necessary contact information

3. Conduct an exit interview

- ☐ **Inform the employee that the exit interview is optional**
- ☐ **Conduct the interview online or in person during the departing employee's last week ([Sample questions on page 11](#))**

4. Manage remaining logistics

- ☐ **Ensure contact information for the departing employee is up to date for future post-termination communication**
- ☐ **Consult your business' policy to determine how to respond to requests for employment references**



- ☐ **Return IT hardware and any company-owned devices, including computer, mobile phone, and any electronic accessories**
- ☐ **Regain possession of all confidential documents, manuals, data records, and other proprietary information**
- ☐ **Return office keys and/or access badge/ID card, and all other company property**
- ☐ **Remove and/or transfer administrative access:**
 - ☐ Access badge/ID card
 - ☐ Company software (Salesforce, HubSpot, WordPress, etc)
 - ☐ Company social media pages (Twitter, LinkedIn, Facebook, etc)
 - ☐ VPN and/or remote document storage (Google Drive, OneDrive, etc.)
 - ☐ Company communication systems (email, Slack, Asana, phone lines, etc.)
- ☐ **Remove from company directory and organizational charts**



Resignation Acknowledgement Letter Template

Instructions

You can use the following as a template to respond to an employee resignation.

Simply copy on your company's letterhead, adjust to your company's needs, and print.

We recommend reviewing your resignation letter with a lawyer to ensure compliance with all applicable laws.

RESIGNATION ACKNOWLEDGEMENT LETTER TEMPLATE



PLACE ON YOUR
COMPANY'S
LETTERHEAD

REPLACE TEXT
IN BRACKETS

[MM/DD/YYYY]

Dear **[Employee Name]**:

This letter is to acknowledge your resignation from **[Company Name]** as **[Job Title]**, effective **[Date]**. We thank you for your timely notice and look forward to discussing any necessary information about your position that will aid the company in your absence.

[Team Member Name] will be in contact with you about any outstanding information regarding paychecks, accrued vacation, medical and dental coverage, as well as COBRA coverage.

On the day of your departure, please meet with **[Team Member Name]** to return any office materials, such as laptops, keys, or ID cards.

Before you leave, please also spend the time to take our employee exit interview. Your honest feedback and perspective will help us continue to improve our work environment for future employees.

[If employee is subject to ongoing obligations, such as a confidentiality agreement, attach and make reference:] [Attached is a copy of your signed **[NAME OF AGREEMENT]**. Please note that you are subject to certain ongoing obligations pursuant to this document, including **[DESCRIBE]**.

Thank you for your time and service at **[Company Name]**. We wish you joy and success in all your future endeavors.

Sincerely,
[Name]



Exit Interview Best Practices

Consider taking the opportunity to learn about a departing employee's experience at your company. In a [Gallup study](#) one of every two employees reported that they had left their job because of their manager. That's just one example of the types of important data you can access through exit interviews. These conversations can help you better understand management style, processes, and employee morale. The more honest feedback you receive, the more information you have to improve your company as a whole.

While exit interviews are helpful, the truth is that it's unrealistic to expect 100% honest answers.

The employee could be worried about burning bridges or may feel uncomfortable candidly sharing their feedback.

Different exit interview styles suit different business;

- Some businesses find it helpful to make the interview as open-ended and safe for the departing employee as possible
- Other companies find a structured interview with a prescribed set of questions to be more useful

In either case, reassuring the employee that the information they provide will remain confidential to the extent possible, may help put them at ease. An effective exit interview helps increase clarity and understanding after the employee moves on.

Reflect on who might best conduct the interview. If you don't have an HR representative, consider choosing a manager from another team. The employee may feel more comfortable divulging details if the interviewer is from a different department and doesn't work intimately with everyone involved.



Although in-person interviews offer the best communication process for getting direct feedback, you may also consider offering anonymous exit interviews via an online survey.

Once you've decided on the best approach for your exit interviews, you will need to consider whether any of the feedback provided requires immediate attention, for example, concerns regarding unethical or inappropriate conduct. You can also create an internal database to store all the answers. As time passes, the data will allow you to paint a clearer picture of organizational strengths and areas of weakness.

Exit Interview Sample Questions

Here are some sample questions to help you get started.

- What caused you to decide to leave this position?
- What were the most important factors you considered when deciding to accept your new role? (Multiple choice answers here can be helpful in extracting meaningful data.)
- How will your new role compare to the position you held at our company?
- Would you recommend this workplace to a friend? Why or why not?
- Would you change the job description for the next person in your role? If so, how?
- Did you receive meaningful and regular feedback from your manager during your time in this position?
- What other support or resources would have helped you accomplish your job better?
- Were you satisfied with your overall compensation and benefits package?



- Were you satisfied with your overall compensation and benefits package?
- What could have been done differently to keep you employed at our company?
- Is there anything else that you'd like us to know about?

* The more honest feedback you receive, the more information you have to improve your company as a whole.



Terminating & Laying Off Employees

Involuntary Terminations & Layoffs: Offboarding Checklist

For this checklist, we define "involuntary terminations" to include the following:

- People being let go due to performance or behavioral issues
- Employees "laid-off" due to company downsizing or restructuring



1. Prepare the paperwork

- ☐ **Work with your HR and legal advisors to ensure that you are comfortable that all termination decisions are made pursuant to applicable company policies and practices, collecting all relevant facts and documentation.**
- ☐ **Consult an attorney on applicable laws in your state and best practices for handling involuntary terminations. Note that layoffs involving more than one employee may subject your company to additional requirements that are not always applicable in other circumstances.**
- ☐ **Collect all documents relating to the employment relationship, including (if applicable):**
 - ☐ Offer letters and/or employment agreements (or any other agreement)
 - ☐ Compensation plans to determine what non-salary or non-hourly pay may be owed to the terminated employee
 - ☐ Immigration documents to understand the impact on status upon termination

2. Notify the employee

- ☐ **Create a strategy for delivering the news**
 - ☐ Inform the employee in person in a private setting, remaining clear and concise
 - ☐ Have a third individual, like an HR representative, in the room
 - ☐ Assess whether the departing employee imposes any safety or security threat, and plan accordingly
- ☐ **Write a termination letter confirming the termination date and benefits end date(s) ([sample on page 18](#))**



- ☐ **Consider whether to offer payment of severance and/or COBRA premiums in exchange for a release of claims and, if so, consult legal counsel to draft a complaint separation agreement**
- ☐ **Debrief the employee on remaining benefits, such as:**
 - ☐ Consolidated Omnibus Budget Reconciliation Act (COBRA): Ensure any notice required by COBRA is provided to the departing employee (For Justworks customers, COBRA information is provided directly to COBRA-eligible employees).
 - ☐ Retirement and life insurance plans, and any other benefits
 - ☐ Any outstanding bonuses
- ☐ **Determine where/when the last paycheck will be sent, or hand the employee their last paycheck in person (in accordance with applicable laws)**
 - ☐ Determine whether accrued, unused paid time off must be included with final pay, pursuant to applicable law and/or company policy. Note that some states, such as California, require employees to be paid for all unused PTO. Other states, like New York, require employees to be paid for unused PTO unless a company policy specifically states otherwise.
 - ☐ Note that certain states, such as California, require final pay to be provided sooner than the next regularly scheduled pay date.
- ☐ **Provide the employee with additional documentation, where required by state or local law**
 - [New York](#)
 - [California](#)
 - [Massachusetts](#)
 - [Colorado](#)
 - [District of Columbia](#)
- ☐ **Notify managers and team members as appropriate, preferably in person**
- ☐ **Notify necessary customers, vendors, and businesses, as applicable**



3. Transition the work

- ☐ **Determine who will assume the terminated employee's responsibilities**
- ☐ **Onboard the replacement personnel**

4. Manage remaining logistics

- ☐ **Ensure contact information for the departing employee is up to date for future post-termination communication needs**
- ☐ **Consult your business' policy to determine how to respond to requests for employment references**
- ☐ **Return IT hardware and any company-owned devices including, computer, mobile phone, and any electronic accessories**
- ☐ **Regain possession of all confidential documents, manuals, IPO, data records, and other proprietary information**
- ☐ **Return office keys and/or access badge/ID card, and all other company property**
- ☐ **Process appropriate paperwork for the termination in your payroll system for compensation and benefits**
- ☐ **Remove and/or transfer administrative access:**
 - ☐ Company software (Salesforce, HubSpot, WordPress, etc)
 - ☐ Company social media pages (Twitter, LinkedIn, Facebook, etc)
 - ☐ VPN and/or remote document storage (Google Drive, OneDrive, etc.)
 - ☐ Company communication systems (email, Slack, Asana, phone lines, etc.)
- ☐ **Remove from company directory and organizational charts**



Termination/Layoff Letter Template

Instructions

Use the following as a template for terminating or laying off employees.

Simply copy on your company's letterhead, adjust to your company's needs, and print. We recommend reviewing your termination/ layoff letter with a lawyer to ensure compliance with all applicable laws. Remember: consult an attorney regarding whether to offer separation pay or other benefits contingent on the employee signing a release of claims.

TERMINATION / LAYOFF LETTER TEMPLATE



PLACE ON YOUR
COMPANY'S
LETTERHEAD

REPLACE TEXT
IN BRACKETS

[MM/DD/YYYY]

[Employee First and Last Name]
[Employee Address]

Dear **[Employee Name]**:

REMOVE THE
RED TEXT AND
INSERT THE
APPLICABLE
INFORMATION

As we have discussed, (Note: HR best practices is to discuss termination of employment prior to issuance of the termination document, when possible) your employment with **[Company Name]** will terminate effective **[Date]**.

Your final paycheck, including **[Accrued unused PTO, Vacation, and Sick Days]**, is subject to applicable withholdings and deductions, and will be paid on **[Date and Method of Payment]**.

Your access to group health insurance coverage for you and eligible, enrolled dependents will terminate on **[Date]** (Note: This should be the last day of the month of termination), unless you elect continuation coverage. Any applicable notices regarding COBRA continuation coverage will be mailed separately to your home address on file.

Employees are required to return all company property and equipment upon termination. Please contact **[Name of Manager/HR Representative]** and **[Phone Number]** with any questions, and let us know if your address changes to ensure that you receive all notices and documents from the company.

Thank you for your time and service. We wish you all the best for the future.

Sincerely,

[Name]
[Title]



Best Practices for Terminating an Employee

You've made the difficult decision to let someone go. This can be one of the most difficult and uncomfortable challenges of operating a business. Planning ahead and developing an established protocol is a necessary step toward executing your involuntary termination with confidence and tact.

Whether the termination is due to poor performance or lack of company funds, it's not a moment that either party looks forward to. Your tone and approach should depend heavily on the situation. A termination for performance or behavioral issues is a different conversation than laying off an employee due to budget cuts.

The Ins & Outs of Involuntary Termination

"At-will" Employment

Let's start with the basics.

Employment relationships are presumed to be "at-will" in all U.S. states except Montana. "At-will" means that, unless an employment agreement specifies otherwise, both the employee and employer have the right to terminate the employment relationship at any time, with or without notice, for any or no reason. But keep in mind that other employment laws may limit this presumption. For example, discrimination based on protected characteristics is prohibited under federal, state, and local laws, as is retaliation for engaging in protected activity, such as opposing unlawful discrimination, exercising certain rights under laws like the Family Medical Leave Act or the Fair Labor Standards Act, or engaging in certain whistleblowing activity. So be sure you consult with experienced HR professionals and/or outside counsel to better understand risks and best practices.



Does the "two weeks' notice rule" apply to resignations? It's more of an unwritten rule than a legal requirement when it comes to at-will employment.

At-will employment relationships don't require employees to give notice of their resignation. However, asking employees to provide two weeks' notice has become a standard practice for various reasons, including planning workflow after an employee's departure

Proactive Management

Employers can often avoid an eventual involuntary termination by proactively managing and documenting employee performance and behavioral concerns according to clear and consistently applied company policies and practices. In those unfortunate circumstances where termination is ultimately unavoidable, following these best practices will put your company in the best position possible by avoiding surprise on the employee's part and documenting the efforts made by the company to address the situation before it became a termination.

Where performance is at issue, you should have communicated what's been lacking in terms of job performance long before it results in termination. As a best practice, your company should adopt clear and consistently applied policies and practices with respect to how managers are expected to manage performance. These policies typically include an escalation protocol, often starting with regular touchpoints between managers and their employees, informal (but documented) feedback where there are shortcomings, and a formal Performance Improvement Plan (PIP) when those shortcomings are not being addressed. Companies should adopt a standard PIP template that can be used to document what the employee needs to improve upon and push them in the right direction. Managers should be trained on the company's performance management policies



before they need to actively manage someone on their team, and work with HR to help draft effective PIPs with actionable feedback and goals.

A PIP should be used only after prior documented coaching and/or other disciplinary tools have failed to secure the required improvements in job performance. In other words, an employee should not hear about a job performance issue for the first time during a formal PIP meeting. PIPs are a sincere and genuine attempt to clarify expectations and set the employee up for success with the commitment and follow-up of the respective manager. It is not intended to prolong the inevitable or solely to provide the documentation necessary for termination – as part of a well-designed process, it is meant to proactively manage performance before it becomes an unresolvable issue.

PIPs can result in improved performance for two reasons:

1. The employee is now aware that their job is at stake
2. The employee has been given specific, actionable feedback on their improvement areas

PIPs generally indicate a probationary period of 30 to 90 days, after which performance must meet specific goals, or employment will be terminated. If job performance doesn't improve after giving the employee this awareness, you will have documentation of their continued failure to meet expectations.

Inappropriate conduct and other behavioral issues should also be managed proactively and documented. Certain behaviors - for example, skipping mandatory meetings or failing to follow mandatory protocols - may be grounds for performance management. Other conduct, such as violations of company policies for appropriate conduct in the workplace, may be grounds for a formal warning. Either way, if your employee is acting inappropriately, it's important that you have a process to



immediately document what happened and when, including a prompt but thorough investigation in the appropriate circumstances. Some behavior may be grounds for immediate termination, such as:

- Threats of violence or other conduct that puts other employees in danger
- Job abandonment
- Acts of sexual harassment
- Inappropriate use of office equipment or sensitive information

Avoiding Messy Terminations

Employers can help avoid messy terminations by proactively addressing performance and behavioral issues, as described above. But when these measures don't result in the requisite improvements, the absolute best thing an employer can do is be decisive and proactive in its decision. Messy terminations are bad for employee wellness, but so is poor performance and employee misconduct. There is no doubt that other employees notice when a colleague is significantly underperforming over a period of time. When the repeated failure of an employee to meet expectations is permitted or ignored by the company for too long, it can have devastating consequences on morale, productivity, and the retention of good performers. Moreover, it can set the wrong expectation to all involved that underperformance and/or misconduct will be tolerated.

Managing Risk Associated With Involuntary Terminations

To some extent, involuntary terminations can never be completely risk-free. There is always a possibility that a terminated employee may feel they have been treated unfairly and/or allege wrongful termination in violation of the law.



However, there are some best practices you can follow to minimize claims of wrongful discharge:

- Develop and consistently apply applicable workplace policies, including performance management policies and policies regarding workplace conduct, harassment and discrimination, and retaliation
- Train your company managers, supervisors, and other decision makers on their responsibilities under these policies
- Promptly and impartially investigate allegations or reports of harassment, discrimination, retaliation or any other violation of company policy. Consult with your HR team and/or counsel as appropriate. If you don't have the right personnel to conduct an investigation, consider hiring an outside consultant to handle.
- Before making termination decisions based on absenteeism, evaluate an employee's legal eligibility for job-protected leave, such as leave under the FMLA and corollary state laws
- Ensure no termination decisions are made in retaliation for legally protected activity, such as filing a discrimination claim
- Discuss with counsel whether to seek a release of claims in return for separation pay or other benefits

Employee Safety

Now, a quick word about termination safety in our world today. Unfortunately, terminating an employee can be traumatic for the employee and can sometimes pose a threat of violence to other employees. However, preventative measures can be put in place to help smooth the transition:

- Conduct careful reviews of employee records and interview supervisors to gauge the potential for violence



- If you believe an employee might be dangerous, have security staff stay with them until they completely exit the premises and property
- If the employee being terminated has previously issued threats of violence, a protection team of security professionals in plain clothes should also remain onsite for a reasonable period of time to ensure that the individual does not return.

Terminating an Employee

In most cases, terminating employees is not a spur-of-the-moment decision. If you need to take action and let an employee go, here are some best practices to keep in mind:

Avoid Making It a Surprise

Where performance is at issue, you've ideally delivered consistent feedback leading up to this conversation, as described above. That way, the employee is aware that they have been underperforming. In some situations, like in the case of gross misconduct, you may need to move more quickly.

Practice What You'll Say

You don't need to memorize a speech, but consider jotting down your talking points and rehearsing beforehand. This will help you control your emotions, be confident in your word choice, and conduct the conversation professionally and without unnecessary discussion that can prolong the process.

Choose Your Location

Choose a comfortable, private setting and book the space ahead of time. Ideally, avoid a spot other employees can easily observe.

**Inform with Tact**

Demonstrate compassion, professionalism, and discretion when terminating an employee, regardless of the reason the employee is leaving. On the day of the conversation, make sure to:

- Have another manager or supervisor present
- Deliver the message directly, and avoid personal attacks and arguments
- Be ready to hand the employee their termination letter
- Inform the employee of any benefits to which they're entitled or provide information on how they can obtain this information promptly

Document the Termination

Always strive to keep clear documentation throughout this process. This may help to protect yourself and your company later. Having written records is especially important in the case of employees who are underperforming or exhibiting inappropriate behavior in the workplace. Having appropriate and consistently applied performance and behavioral management practices in place will help ensure you are creating these records in the normal course of business while proactively managing employee concerns.

Employers should consider whether a separation agreement (with a release of legal claims) is appropriate, and discuss such considerations with counsel. If so, consider presenting the agreement to the departing employee in the termination meeting.



Here are some additional documents that are often useful in termination cases:

- Employment Agreements and applicable policies
- Documentation regarding performance or other conduct

* In the end, knowing that you've taken the proper steps will help you rest easy and will protect your company from unwanted lawsuits.



Handling a Death in the Workplace

Advice on Providing Workplace Support

Handling the death of an employee is a sensitive matter and an emotional challenge for everyone. Business must continue, but being sensitive and thoughtful is essential. Demonstrate care for the mental health of your employees and give the event the recognition it deserves.

Here are several actions you can take to help employees grieve, and also keep the necessary wheels turning in place to keep the business going.

**Inform People Gracefully**

It's better for your employees to hear about the death of a colleague formally from leadership than through the grapevine.

First, verify that the family has been informed, then let your employees know in a manner that best suits your company. If your employee was a member of a small team, it might be best to inform their teammates personally first. After they're notified, you should then communicate the information to the rest of the office. Let people know you will follow up with more details, such as a memorial service or funeral date.

Put Plans in Place

Unfortunately, day-to-day operations must continue even if an employee has passed away. Do your best to communicate with the deceased employee's team members to determine what must be handled immediately. If necessary, contact regular clients to inform them of the situation and let them know who will be their point of contact going forward.

Allow Employees Space to Process

People grieve in a variety of ways, from social withdrawal to poor sleeping. If you can, let your employees take time off to process, and give them space to grieve in the way that is most healthy for them.

* Demonstrate care for the mental health of your employees and give the event the recognition it deserves.

**Offer Grief Counseling**

Some employees will benefit from grief counseling, whether it's in the office, on the phone, or through a healthcare plan. Here are some ways you can help:

- Direct people who need to talk to the Grief Recovery Hotline (800-445-4808) or to recovery groups like [GriefShare.org](https://www.griefshare.org), which offers a network of support all over the U.S. and Canada
- Bring in a grief counselor for the day to talk to employees who want the option
- Research if your company's benefits program includes mental health and counseling through an Employer Assistance Program (EAP) — if you use an app like Health Advocate, employees can talk to professionals who will refer them to the proper services

Send Regards to the Family

It's important to respect a family's privacy, but also let them know you care. Send a card, charitable donation, or flowers as appropriate.

Keep open communication with relatives as you handle required paperwork, uncashed paychecks, and other loose ends. Check to see if the deceased employee had any dependents enrolled in their health coverage. At the proper time, inquire as to whether these individuals will seek COBRA continuation coverage through your group health plan.

Find Ways to Honor the Employee's Memory

Do something special to recognize the deceased employee. Consider forming a committee to decide what is appropriate. Some ideas might include the following:

- A card signed by the team to the family members
- A moment of silence
- Attending the memorial



- Pooling together money for a related charity
- A plaque or dedication to the deceased somewhere in the office

Sort Out**Workplace****Logistics**

When the time is right, you'll have to handle the required paperwork and outstanding paychecks for deceased employees. However, it's best to avoid abrupt changes and allow coworkers time to adjust before rearranging desk and office space.

Death is a sensitive and personal issue. Continuing work in the face of a colleague's death isn't easy, but it will go more smoothly if you have a process in place to handle the necessary logistics and offer support to employees. Business won't go back to normal immediately, but it will eventually adjust as people navigate their co-worker's absence.

Handling A Deceased Employee's Paychecks

Uncashed Paychecks

If a paycheck has already been issued to an employee, but the employee dies before cashing it, a check has to be reissued for the same net amount as the original check. However, the replacement check should be made, payable to the employee's beneficiary or personal representative.

The employer should also have the employee's personal representative sign a statement that the money being paid is for a deceased employee's uncashed paycheck. Since the final paycheck was already issued once, the necessary taxes have already been withheld. That means the wages and taxes will be reported on the employee's Form W-2 at the end of the year.



One issue that must be addressed is the definition of a personal representative. Under federal law, an employee's personal representative is any person designated by an employee's will or determined by probate. If there's no will or if the employee's will or estate hasn't yet been probated, the check should be issued to the employee's estate.

Employers will want to check state law because it may designate that only specific individuals (such as a spouse, children, or parents) may be the employee's personal representative. Individual state laws may also limit how much may be paid directly to a personal representative.

Handling A Deceased Employee's Wages

Accrued Wages Paid the Same Year as the Employee's Death

Before a deceased employee's accrued wages can be paid, the employer should have the employee's personal representative or beneficiary complete a [Form W-9](#) to obtain the person's Social Security Number (SSN). Typically, if there is no personal representative, the wages cannot be paid until the probate court has issued a tax identification number (TIN) for the employee's estate.

Wages paid in the year the employee died are subject to federal employment taxes (Social Security, Medicare, and FUTA).

Therefore, the employer must withhold the Social Security and Medicare taxes from the employee's unpaid wages and deposit these taxes and the employer's share. [[IRS Publication 15](#), pp. 23, 36.] At the end of the year the wages will be included on [Form 940](#), subject to the FUTA tax.



The employer will report the accrued wages and the federal employment taxes withheld in Boxes 3-6 on the employee's Form W-2. The gross amount of the unpaid wages should not be included in Box 1. [IRS Revenue Ruling 86-109.] The gross amount paid should be reported in Box 3 (Other Income) of [Form 1099-MISC](#) in the name and TIN of the beneficiary, personal representative, or the employee's estate. [[Instructions for Form 1099-MISC, pp. 2-3.](#)]

Wages Paid in a Year After the Employee's Death

It is possible that payment of accrued wages may not be paid until a later year due to delays in probating the employee's estate. When this happens, IRS Revenue Ruling 86-109 states that "these payments are not considered wages for purposes of the collection of income tax at source," and the payments are not subject to federal employment taxes. These amounts will not be reported on a Form W-2.

Therefore, the employer will report the gross amount paid in Box 3 (Other Income) of Form 1099-MISC in the name and TIN of the beneficiary, personal representative, or the employee's estate.

Yes, it can be complex. That's why it's vital that your business have the proper procedures and forms in place prior to needing them.

-
- * Before a deceased employee's accrued wages can be paid, the employer should have the employee's personal representative or beneficiary complete [Form W-9](#).



Deceased Employees: Offboarding Checklist

When an employee passes away, paperwork and logistics may get complicated. This checklist provides a starting point to ensure you correctly handle the employee's remaining paychecks, benefits, and other assets. And remember: check with a qualified lawyer to ensure you've tied up all the required loose ends in compliance with applicable laws.

1. Pay Outstanding Wages

- ☐ **If there is a personal representative or beneficiary...**
 - ☐ Consult state laws to determine which individuals may be paid and how
 - ☐ Have them complete Form W-9 to obtain the deceased employee's Social Security Number
 - ☐ If applicable, reissue the net amount of any uncashed paychecks payable to the beneficiary or representative
- ☐ **If there is no personal representative or beneficiary...**
 - ☐ Wait for the probate court to issue a tax identification number (EIN) for the employee's estate
 - ☐ Reissue the net amount of any uncashed paychecks payable to the employee's estate

2. Handle Necessary Paperwork

- ☐ **Obtain the necessary death certificates to be used for life insurance, pension/401(k), and applicable workers' compensation death benefits**

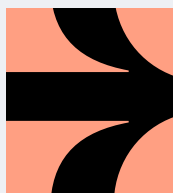


- ☐ **End health insurance, according to your company's policy**
- ☐ **Determine Health Savings Account (HSA) balance prior to the date of death and notify the personal representative or beneficiary of the procedure**
- ☐ **Withhold Social Security and Medicare taxes and state employment taxes from the employees' unpaid wages, if applicable**
- ☐ **Deposit taxes and the employer's share**
- ☐ **Include wages on Form 940, the Employer's Annual Federal Unemployment (FUTA) Tax Return**
- ☐ **Report accrued wages and federal employment taxes on Form W-2 in boxes 3-6**
- ☐ **Do not include the gross amount of unpaid wages in box 1**
- ☐ **For any wages paid in the year of death or after an employee's death, report the gross amount paid in box 3 of Form 1099-MISC in the name and tax ID number of the beneficiary, personal representative, or employee's estate**
- ☐ **Complete COBRA paperwork for dependents**



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