

Question:

Do we have to honor an employee's two-week notice period?

Answer from Jenny, SPHR, SHRM-SCP:



Assuming there is no contract or agreement to the contrary, you're not required to keep an employee on during their resignation notice period or compensate them for the duration of that period. However, we recommend considering a couple issues before asking an employee not to work during their notice period.

First, if you have them leave before their notice period is up and don't pay them for that time, the resignation may become an involuntary termination in the eyes of your state's unemployment insurance department, making them eligible for unemployment. The effect of a single claim on your UI tax rate is likely to be very small, but if you're concerned about it, you could pay the employee for the duration of the notice period, but not have them come in to work. (Note that you may operate in states where even paying them through that period will not prevent a successful UI claim – you'll want to check state law if you decide to go this route.) If the employee is leaving your organization to take a position elsewhere, chances are they aren't planning to file for UI anyway, so this may be a moot point.

Second, terminating the employee before their resignation period comes to an end could motivate other employees to forego giving adequate notice in the event they resign. By terminating an employee immediately, rather than letting them earn two more weeks of pay, you're effectively telling other employees that you don't honor notice periods. As a result, they may not see the point in giving you that courtesy.

Ultimately, the choice to terminate early – with or without pay – is up to your discretion. There are certainly good reasons to ask an employee not to return to the office once they have offered you notice. Just keep in mind that it might also be best to go ahead and pay them for their notice period, even if you don't want them to continue to work.