

Considerations When Staffing Needs Change

The current national economy has caused many businesses to re-evaluate their staffing needs. Claim frequency and severity can be adversely affected when layoffs occur. The following information is being shared to help you avoid costly workers' compensation pitfalls in these circumstances.

How Should Layoffs be Handled?

A lay-off is non-disciplinary and can be defined as a termination due to the employer's economic circumstances. Layoffs may be due to economic reasons, reorganization, changing products or marketing strategies, or selling part of the business. In some companies, people who are laid off have recall rights. In non-union settings, however, most employers terminate laid off employees rather than placing them in some type of layoff status where there would be recall rights.

Layoffs require careful treatment to:

- Avoid discrimination issues;
- Keep disruption to productivity to a minimum; and
- Avoid as much employee resentment as possible.

It's a good idea to have a layoff policy in advance. You may decide not to publicize the policy, but it's wise to define the factors that will affect the order of the layoffs and how those factors are to be evaluated. For example, performance, seniority, length of service, job classifications, transfers, bumping rights, age, sex and minority group status. You should also decide if you will provide severance pay, and if so, what formula and whether there will be a severance pay policy or

whether any payment of severance pay is non-precedential.

The Worker Adjustment and Retraining Act (WARN) is a federal law that requires employers of 100 or more employees to provide 60 days' notice if layoffs, within a 90-day period, will affect one-third of the work force and a minimum of 50 employees. (WARN also applies to facility and plant closings).

What to do

1. Decide how much advance notice to give, if any, and how to communicate information to employees.
2. Explore alternatives to avoid layoffs, including reassignments, job-sharing, and downgrades.
3. Consider procedures for preparing departing employees for unemployment, and to assist them in finding new jobs. The State Employment Development Department and the Private Industry Council are publicly-funded organizations that provide free or low-cost outplacement assistance.
4. Determine the order of layoffs. Seniority was the traditional basis, but rapidly changing technology has added a new dimension to the process. An employer may modify standards when senior employees cannot perform or cannot be trained to perform available jobs or junior employees are essential for operations. The order of layoffs should come from a collective bargaining agreement, or a business plan that supports the need for layoffs and the basis for choices of whom to layoff.
5. Determine procedures, if any, to follow when rehiring people after the layoff.
6. Notify employees. Prepare supervisors so they can answer questions. Include considerations of benefits that employees are entitled to and application procedures for them, company benefits such as group insurance (particularly if employees contribute to it), employees' recall rights, if any, and notification procedures and recalls.

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7. Follow up verbal notice with a formal written notice. Each notice should include information about the last day of work, benefit entitlements, and recall rights. Do not use layoffs as a way to clear out unsatisfactory employees. If any employees are truly unsatisfactory, try to discharge prior to starting any layoffs.

By following these tips, you may be able to avoid costly mistakes that can affect your business and employees if you do have to make tough staffing choices. For more information about personnel practices and workers' compensation, contact your insurance agent or a Zenith Insurance Company Claims Examiner. For a copy of Zenith's *Digest of Personnel Practices*, log on to Zenith's website at www.thezenith.com (click on Employers Tab, Resource Library, Brochures).