
Layoff/Severance Considerations

- Determine feasible workforce reductions options with appropriate departments, potential options to consider (For unionized locations, review your collective bargaining agreement):
 - a. Pay cuts
 - b. Job reclassification
 - c. Temporary furloughs
 - d. Early retirement
 - e. Permanent layoffs
 - f. State work share program (if accessible)
- If permanent layoff is selected, analyze workforce following your Company policy. (If no company policy, determine how to approach with business leaders and recommend seeking legal counsel.) Potential options to consider when analyzing workforce:
 - a. Seniority
 - b. Performance
- Avoid Adverse Action/Disparate Impact and protected classes' discrimination. Calibrate decision recommendations and analyze for red flags.
- Review Federal and State Worker Adjustment and Retraining Notification (WARN) Act Regulations to stay complaint and follow up on actions.
- Review Older Workers Benefit Protection Act (OWBPA) Regulations for Compliance and follow up on actions
- Determine Severance Packages and Additional Services
 - a. Written severance document? Obtain legal advice
 - i. OWBPA language
 - ii. For over age 40 layoffs, include language providing 21 days to elect package and 7 days to rescind election after signing it
 - iii. Language to protect against lawsuits (list the various employment laws)
 - iv. Non-compete language? Consider if this is something your company wants/needs and if it is only for certain positions.
 - v. Non-disclosure language plus consider if you want a penalty for disclosing details of agreement

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- b. What to include in severance
 - i. Salary continuation
 - 1. How many weeks will you pay?
 - 2. Will it be paid over a period of time or lump sum?
 - ii. Vacation Payout
 - iii. Benefit coverage (including COBRA premiums)
 - 1. What date will benefits move to COBRA?
 - 2. Will the Company offer to pay a portion of COBRA?
 - iv. Outplacement services
 - v. Employee Assistant Program (EAP)
 - 1. How long will you offer?
 - 2. What services will be offered through the program?
 - Share state unemployment information with affected workers on how to file, when to file, etc.
 - Share retirement information, such as retirement rollover, at exit discussion.
 - Determine communication strategy for all stakeholders, prepare written communication, and schedule logistics if in person meetings: Stakeholders consider, but not limited, to:
 - a. Employees
 - b. Customers
 - c. Vendors
 - d. Suppliers
 - Consider when designing a communication strategy:
 - a. When to communicate
 - b. How to communicate
 - c. Where to communicate
 - d. Update all websites, emails etc. with contact information, set up out of office, get building keys, company vehicle, how to return/exchange,
 - e. Get with IT to ensure proper shut down when needed
 - Conduct the layoff session in person, if possible. Include immediate supervisor and Human Resources if possible.
 - Inform current workforce of layoff. Be prepared to help answer questions regarding the security of current positions not being laid off. May want to speak with attorney on how to handle
 - a. Stick to facts
 - b. Do not mention certain individuals
 - Obtain signature & notary witness if deemed necessary.
 - Rebuilding culture and checking in with current staff after these changes have been made.