

## The Compliant Layoff

Following proper and compliant procedures during the layoff process is essential to preventing legal trouble. Every organization should make managers aware of guidelines that will ensure legal layoff practices. There are many laws that protect employees. For example, the Worker Adjustment and Retraining Notification Act (WARN) protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs.

Nonprofit organizations may experience lower involuntary turnover rates and have less experience in the process. If you are in this scenario, consult with an expert. Professional employer organization (or PEOs) are a human resource outsource solution for small and mid-size organizations who cannot afford or do not wish to employ a full-time payroll processor, risk manager, benefits administrator, recruiter, trainer and someone to handle daily personnel and management issues. PEOs share employment liability with their client partners and carefully assist all clients with the layoff process.

Tandem HR, an Oak Brook-based PEO, shares their top 10 guidelines when performing layoffs in order to remain compliant and minimize liability for the company:

- 1) **Communicate the changes in your company.** Many nonprofit organizations have small staff. If you're able to provide advance notice that layoffs are inevitable, do so. There may be rare instances of voluntary resignation. At the very least, this will give your employees a chance to process the likelihood of a layoff, resulting in a more well-managed reaction when the time comes. If you're unable to give advance notice, communicate the changes right after the layoffs.
- 2) **Treat them with dignity.** Allow employees to say goodbye to co-workers. If they are particularly emotional, offer a chance to come back and clean their desks at a later time, or offer to ship their personal effects. How you treat employees (both the ones leaving and the ones staying) will set the tone for morale during this economic storm.
- 3) **Be sympathetic.** This can be an emotional turbulence for all parties involved, including management's. Consider everyone's feelings and repercussions. Often times in a nonprofit setting, the employee has a sincere passion for the cause behind the organization and is emotionally invested.
- 4) **Select carefully.** Make sure you are not setting yourself up for a lawsuit by eliminating a group of people from a protected class (race, gender, sexual orientation, age), close to retirement, with outstanding claims against your company or currently on leave. Keep employees who are key performers.
- 5) **Do it all at once.** If laying off more than one, it is ok to do so in a group setting. Employee morale will suffer more if one person is being let go each week. Anxiety levels will rise and productivity will go down.

- 6) **Give informational packets.** Understand employees won't necessarily "hear" the information you are giving verbally. They're thinking about the job they just lost. Give them a packet of information to take home that gives details of the layoff, outlines any severance agreement, information on obtaining unemployment insurance and when they will receive insurance continuation benefits.
- 7) **Script the meeting and keep it brief.** Communicate the same message to all separating employees.
- 8) **Pair up.** If possible, always have two managers deliver the news together. The direct manager of the employee should be present if not the one conducting the layoff. Be mindful of those who might react violently and take proper precautions.
- 9) **Deliver the news on a Monday or Tuesday.** This allows the employee to visit the unemployment office right away and start to take action to seek a new job. Employees who stew over the weekend are more liable to take legal action or retaliate against the company.
- 10) **Get human resources involved!** They are trained to help you through this process. It is never easy to conduct layoffs. If you do not have a human resource expert, consult a PEO. Several, including Tandem HR offer free resources like Outplacement Kits and Employee Assistance Programs.

For more information on professional employer organizations, Tandem HR or to register for the upcoming *Healthcare Reform Webinar: Key Employer Elements*, visit [www.TandemHR.com](http://www.TandemHR.com) or call 630.371.6209. For more information contact Tandem HR at 630.928.0510 or visit [www.tandemhr.com](http://www.tandemhr.com). The staff at Tandem HR contributed to this article. It is intended as information only and is not a substitute for legal advice. Tandem HR is a professional employer organization specializing in strategic HR partnership with small and mid-sized businesses.

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