

Alternatives to Laying Off Employees



Many employers are considering whether it will be necessary to lay off employees. Before taking this step, consider other alternatives that may accomplish the organization's economic goals, while avoiding the significant impact of a layoff on an employee's life.

There are many reasons to consider alternatives before laying off employees during rough times. Good employees may be lost through a layoff. Often the productivity of the remaining workers suffers because of the stress generated by their coworkers' layoffs, uncertainty about their jobs, and increased workloads. On the other hand, employees who see their organization trying to save their jobs, by implementing alternatives to reductions in force, often become more loyal and productive.

Alternatives to consider include:

Restructuring

Review and evaluate the structure of the organization and how it goes about doing business. Has the organization strayed from its primary purpose or goal and diverted time and energy to unnecessary matters? Reassessment of the way the organization—or individual departments—operate can lead to streamlining processes. More efficient processes save money. Restructuring may, in the long run, mean fewer people, but the changes are more in line with the organization's goals.

Attrition

As employees leave the organization, allow remaining employees to share the available work. In a difficult economy, when jobs are hard to come by, voluntary attrition due to employees quitting to take a job with another company declines. However, there may still be some attrition due to promotions, transfers, retirements, or terminations for cause.

Shortened Workweeks

Reduce the number of hours employees work in a workweek, which spreads the economic impact among the employees. Watch out for these issues:

- Reducing the salaries of exempt employees, to reflect a shortened workweek, raises wage and hour issues but may be permissible under certain circumstances. Consider full-week reductions for exempt employees.
- Employees may be eligible for a partial unemployment benefit, if their workweek (and therefore, their pay) is shortened significantly. If the employees' workweek is reduced from 5 days per week (40 hours) to 4 days per week (32 hours), it is unlikely they will be eligible for a partial unemployment benefit.
- Eligibility for health care coverage and other benefits may be affected, as a result of shortened workweeks, if the employees no longer meet the eligibility requirement of the plans.

Rolling Layoffs

This is another method that spreads the impact among all affected employees and involves laying off employees for short periods (a week or two) one after another, so that the business can continue to operate. Employees will likely be eligible for unemployment benefits for the week(s) they are laid off. Because a salaried employee does not need to be paid for any week in which he or she performs no work, this method works well for exempt employees.

Furlough

A furlough is a temporary leave of absence, based on company needs or demands. This differs from a layoff, in that the intent is for the employee to resume the regular schedule after a determined period. Employees retain benefit eligibility and do not lose time accumulated toward the total length of service. This type of arrangement may be administered as a block of time or a specified number of hours over a period of time. For example, employees may be asked to reduce hours from 40 to 24 over three months. When considering this for exempt employees, be mindful of wage and hour issues arising from reduced pay.

Voluntary Reduction of Hours

This alternative can range from offering employees the opportunity to take a couple of unpaid days off to asking if any employees would be interested in volunteering for a longer layoff. Often, there are employees who welcome the opportunity for extra time off, whether it is to take care of family responsibilities, study, heal, or take a vacation. In some states, unemployment benefits may be available to employees taking a voluntary layoff to avoid the layoff of another worker, if certain circumstances are met. It's important for a business to define the staffing needs, upfront, and if a certain number of defined layoffs (whether voluntary or involuntary) are required.

Voluntary Early Retirement Packages

This allows employees, who are at or near retirement and may already be considering retirement, an incentive to leave the organization. Most voluntary early retirement offers include a severance package that is based on annual salary and years of service with the company, for example, one week per year of service. It is advised to seek legal counsel before offering an early retirement package, to ensure your business is offering a proper incentive package or "consideration" as defined by the EEOC, and to ensure that accurate paperwork is included, including required waivers of discrimination claims.


Even if a layoff eventually becomes necessary, employers who have considered these and other creative alternatives will have maximized their chances of success during a challenging time and minimized their legal risk, while gaining the respect and loyalty of their employees.

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