

Key steps when laying off employees

Follow these key steps when laying off employees to ease the process and maintain HR compliance.

1. BE ABLE TO ARTICULATE THE BUSINESS REASONS FOR THE LAYOFF.

Consistently articulating the business basis for the layoff is key to protecting your credibility and complying with employment laws.

2. ESTABLISH A SYSTEMATIC PROCESS WITH SPECIFIC CRITERIA FOR WHOM WILL BE TERMINATED BASED ON BUSINESS GOALS.

- Use clear and objective criteria, such as:
 - Tenure (i.e., last hired, first hired)
 - Performance review ratings (past documentation required)
 - Job classification
 - Attendance
 - Skill sets
- Avoid leave status and protected conduct as layoff criteria.
- Consider whether to lay off one person from each department or perhaps an entire unit.
- Identify any employees needed for a transitional period and how long you would like them to stay.

3. ANALYZE AND REVIEW WHOM YOU'VE SELECTED TO LAY OFF.

If the percentage of any protected class is disproportionately terminated, make sure you have measurable criteria substantiating your choice (e.g., cost of pay as the criteria that affects many workers over age 40).

This could include:

- Race
- Color
- Ethnicity
- National origin
- Religion
- Gender
- Sexual orientation
- Marital status
- Genetic group
- Age
- Disability
- Veteran status

4. REVIEW WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) ACT REGULATIONS

If your business has 100 or more employees and meets other qualification standards, a 60-day notice may be required. Also check similar state laws. To learn more about how to comply with the WARN Act, [read this](#).



5. CHOOSE SEVERANCE PACKAGES

Severance packages can make layoffs less stressful to displaced employees and may also reduce the chances of legal action. Some states have mandatory severance criteria.

Severance packages can include:

- Salary continuation
- Continued benefits coverage
- Employer-paid COBRA premiums
- Vacation pay
- Outplacement assistance

6. REVIEW AGE DISCRIMINATION WAIVER REGULATIONS

Consider obtaining age discrimination waivers. However, this could open questions about whether a terminated employee should file a lawsuit.

Waivers obtained from workers age 40 or older must also comply with the Older Workers Benefit Protection Act ([QWBPA](#)) to be effective.

For more information, visit the U.S. Equal Employment Opportunity Commission website: <https://www.eeoc.gov/laws/guidance/qa-understanding-waivers-discrimination-claims-employee-severance-agreements>

7. PREPARE LAYOFF PACKETS

This could include:

- **COBRA information**
explain COBRA and what they need to do to continue receiving their benefits.
- **Unemployment**
provide contacts to the local unemployment agency.
- **Verification**
include confirmation of employment, including dates of employment and titles.
- **Retirement**
include information on their 401(k) package.
- **Releases**
if applicable, include the release of discrimination claims for employees to sign.
- **Assistance**
include outplacement resources and an offer to provide letters of recommendation for outgoing employees.

8. IMPLEMENT THE LAYOFF

- Sit down with employees and explain the business reasons for the layoff
- Review their severance package and point them to any opportunities for assistance.
- Communicate that the layoff is not the fault of the employee.

9. INFORM REMAINING EMPLOYEES

- The rest of your workers may be anxious after hearing about their colleagues being let go.
- Get ahead of fear and gossip by notifying remaining employees of the layoff yourself.
- Emphasize your commitment to meeting your future goals with your current staff and provide an update on your company's financial position.
- Prepare for questions and be ready to answer honestly to help stabilize productivity and morale.