

Before, During, and After the Layoff: Doing the Right Thing When It Comes to Downsizing

By Donald Phin, Esq.

During the 1980s, Fortune 500 companies eliminated more than 3 million jobs. This trend accelerated in the 1990s as downsizing affected an average of 400,000 employees each year. In response to an apparent economic slowdown as 2001 begins, at least 20 percent of the nation's businesses are currently involved in or planning to reduce their number of employees.

If your company, your client, or your insured is thinking about layoffs or downsizing, you should review the following checklist.

Before the layoff:

- ◆ If the organization doesn't have one, prepare a *reduction in force (RIF) policy* that provides objective guidelines for determining staff reductions (e.g., quality of past performance, anticipated need for skills and experience, company financial situation). If ever needed, follow these guidelines consistently. Have your attorney and senior management analyze your RIF policy before and after it is implemented.
- ◆ In larger companies, consider hiring an industrial relations statistician to review any RIF decision before it is implemented to prevent disparate impact claims.
- ◆ Make sure that the decision to engage in a one- or two-person "layoff" is not merely a pretext for a discriminatory action or is driven by ill will toward a single employee. Go beyond the immediate numbers and weigh the long-term costs against the benefits associated with downsizing.

- ◆ Evaluate the alternatives to downsizing: wage/benefit reduction and/or elimination of overtime.
- ◆ Level with employees and tell them exactly how much money has to be saved to avoid a layoff. Employees will often devise effective plans for cost cutting because they know, first-hand, the sources of waste within each department.
- ◆ Be clear about the goals associated with downsizing and the structure of the company that is expected to emerge after the layoff.

During the layoff:

- ◆ Abandon the adage that the last hired should be the first fired. If forced to cut staff, choose those with poor morale who provide low value to the company.
- ◆ Consider cutting positions designed to catch mistakes, such as inspectors or control clerks. People in these positions tend to be overly concerned with policies and procedures rather than with bottom-line results.
- ◆ Increase the level of communications during a layoff. Share company financial status, provide the guidelines for determining staff reductions, and establish employee feedback mechanisms.
- ◆ Carefully monitor the "rumor mill." If left unchecked, speculation within an organization can create numerous problems from bad press to mass employee defections.

◆ Prepare an information sheet to hand out to employees explaining the layoff process. Consider using a question-and-answer format.

◆ Provide departing employees with handouts and pamphlets explaining continuing medical and unemployment compensation benefits.

◆ Assist those who will be leaving with severance packages, outplacement opportunities, counseling services, and employee assistance programs. *Resist the temptation to turn them into independent contractors.*

◆ Offer early retirement or voluntary resignation with severance packages. If you want employees to stay beyond a certain date, state that the severance will be paid only if employees stay through that date. Require the signing of a release as consideration for any severance package.

◆ Be particularly sensitive to all workers, especially long-term employees, women, and minorities.

◆ Since few managers like to fire their own people, organizations sometimes employ outside consultants to do the dirty work of informing workers about their termination. Resist this temptation because it reduces organizational trust. Use consultants for advice, not to do your job.

◆ Do not overlook the need to reduce senior management in the downsizing process. Senior management will be sending the wrong message

if they do not share the costs of downsizing by focusing solely on mid-level and front-line workers when implementing cuts.

◆ Do not drag the process out—it only lowers morale further.

After the layoff:

◆ Enter into mentoring, consulting, or part-time employment agreements with departing employees to obtain the continuing benefit of their knowledge and training.

◆ Make sure your employees understand that seniority-based employee systems are no longer viable in the present economy. A company cannot afford to provide regular promotions and pay increases that are not directly related to the value an employee brings to an organization.

◆ Support the people who are staying. Acknowledge their fears, insecurities, and sense of loss. This will ensure that key, highly productive employees do not voluntarily leave the company.

While this checklist cannot address specific situations, it should be used as a starting point. Involve your managers, employees, officers and directors, local officials, and attorneys to help you make wise legal and management decisions. If you have any suggestions or comments about this report, let us know and we will be glad to respond to or share them.

EPLiC