



Employee Separation Best Practices

Layoff Dos and Don'ts

Introduction

With the number of people using LinkedIn, Glassdoor, TikTok, and a myriad of other social media platforms, it's easy to go viral. The problem is, sometimes, it happens for the wrong reasons. From poor planning to lack of communication, apathetic messaging, disregarding federal regulations, inadequate severance packages, and neglecting remaining employees—layoffs, unfortunately, come with many ways to misfire.

Fortunately, you can avoid becoming newsworthy—unless it's for how well you managed the layoff—if you follow these **dos and don'ts**.

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"...it's important from a consistency standpoint, a fairness standpoint, that you know what you're going to do for individuals, how they become eligible for severance, how much they're going to get, and that it's consistent across the board."



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Following Local and Federal Regulations

Do abide by local and federal legal requirements.

Employers must comply with various **federal, state, and local laws** to avoid legal liability when conducting layoffs. Below are general legal considerations employers should take into account:

1. WARN Act (Federal & State)

The Worker Adjustment and Retraining Notification (WARN) Act

requires employers to provide advance notice of **mass layoffs** or **plant closures**.

- **Applies to:** Employers with 100+ employees
- **Notice requirement:** 60 days' advance notice for mass layoffs affecting 50+ employees at a single site
- **State WARN laws:** Some states have their own WARN laws with stricter requirements (e.g., California requires notice for layoffs impacting 75+ employees)

Failing to comply can result in fines and liability for back pay, not to mention bad publicity.

2. Anti-Discrimination Laws

Layoffs must not discriminate against employees based on **protected characteristics** under:

- **Title VII of the Civil Rights Act** (race, color, religion, sex, national origin)
- **Age Discrimination in Employment Act (ADEA)** (protects employees aged 40+)
- **Americans with Disabilities Act (ADA)** (protects employees with disabilities)
- **Pregnancy Discrimination Act**
- **Equal Pay Act**

Tip: Ensure that layoff criteria are based on **business needs** and **applied consistently**.

3. Severance Agreements and Releases

Employers may offer **severance packages** to terminated employees, often in exchange for a **release of claims**.

- **Age Discrimination in Employment Act (ADEA)** requires:
 - 21 days for employees to consider a release of age claims
 - 45 days if part of a group layoff
 - 7-day revocation period after signing

Tip: Ensure severance agreements are clear, fair, and legally compliant.

Don't ignore regulations such as the WARN Act.

Twitter, now known as X, became the defendant in multiple lawsuits after its mass layoffs, which were undertaken without giving employees mandatory notice. Perhaps ironically, this social platform is one place where its alleged misdeeds went viral, in addition to everywhere else employees and business journalists post, giving the company the reputation of being a questionable employer.

4. National Labor Relations Act (NLRA)

Employers must comply with the **NLRA**, which protects employees' rights to engage in **protected concerted activities**.

- **Unionized workforce:** Employers may need to negotiate with the union before layoffs.
- **Non-unionized workforce:** Employees still have the right to discuss layoffs.

5. Employee Benefits and COBRA

Employers must address **benefit continuation**:

- **COBRA (Consolidated Omnibus Budget Reconciliation Act):** Requires employers with 20+ employees to offer continuation of health benefits
- **Pension and Retirement Plans:** Review the impact on vested benefits.

6. Employment Contracts and Policies

Employers should review:

- **Employment contracts:** Ensure compliance with notice and severance obligations.
- **Employee handbooks:** Follow internal policies related to layoffs.

7. State-Specific Laws

Some states have additional requirements:

- **California:** Requires payment of all final wages immediately upon termination
- **Massachusetts:** Requires payment of accrued vacation time upon termination

Tip: Consult local laws to ensure compliance.

8. Immigration Considerations

Layoffs can impact employees with **work visas** (e.g., H-1B, L-1). Employers must:

- Notify **U.S. Citizenship and Immigration Services (USCIS)**.
- Pay **return transportation costs** for H-1B employees if terminated before the end of their visa term.

9. Documentation and Communication

Employers must ensure:

- **Objective criteria** for selecting employees for layoff (e.g., performance, seniority)
- **Documentation** to justify the business reason for layoffs
- **Clear communication** to employees about the process



Conducting Layoffs Sensitively and Responsibly

Do conduct layoffs sensitively and have a communication plan.

You never want to wing it when [communicating employee separations](#), whether you're notifying a team member that they're being let go or announcing to your remaining workforce that layoffs have occurred. Being prepared is crucial to ensuring sensitivity and managing the response effectively.

Always conduct notifications in person in 1:1 meetings if possible and remotely; otherwise, preferably also 1:1. Consider the timing: Will people in certain time zones learn about the action early or late inadvertently? And have scripts prepared so that messaging is consistent and thoughtful.

Before beginning notifications, plan where and when they'll take place, as well as who will be conducting them, whether that be the employee's manager or HR.

Use the following talking points to help ensure the messaging is professional and sensitive.

Manager Talking Points

Open discussion with the following:

(Employee name), thank you for meeting with us today.

As you know, we are continuing to evaluate whether we are performing as an efficient and effective organization and can meet our budget requirements.

As a result of our ongoing analysis of our organization, the marketplace, and the economy, we have made the difficult decision to eliminate various positions to include your position, effective _____ (however, your last working day will be _____).

This decision is based on the needs of the business. Determination of positions being eliminated was based upon the need for the functions of the role moving forward, the ability to distribute the work to other positions either within a department or to another location/process, the ability to eliminate tasks that do not directly support the business, and responsibilities of the roles.

We appreciate everything you have done for the company and thank you for your service.

Introduce HR (if HR will be completing the notification process).

I know you may have some questions about how this will impact you, so I have asked _____ from Human Resources to join us to ensure we get them answered.

Don't notify employees by Slack, emails, or text messages.

General Motors was criticized for notifying 1,000 employees of layoffs via text message, prompting them to check their emails for further information. Similarly, when Google parent Alphabet laid off 12,000 employees, many learned about their termination through pre-dawn emails. Employees of the tech company Spectrm discovered the company's bankruptcy filings and subsequent layoffs via a Slack message. The lack of prior communication and the impersonal nature of these notifications were heavily criticized.

HR Talking Points

Open with the following:

I know this is difficult news to take in. I will follow up with an email including information I'm about to share so you have an opportunity to process the information and review for any questions.

I ask that you please not share this information with any employees or clients at this time out of respect for those who are also impacted and have not yet been notified.

If the employee's last day is today:

As your manager mentioned, today is your last day of employment.

If the employee's last day is a future date:

Although you are receiving your notification today, your separation date with the company will be [Day, Date].

Review the following points with the employee:

Final paycheck

You will receive your final paycheck on or no later than [Date] via direct deposit or a live check mailed to your home address, including pay through [Day, Date].

Benefits

Benefits will end on [Day, Date].

Severance

After your last day of employment, you will receive a packet of additional information, including a separation agreement and general release for your review and consideration. If you sign and return the standard separation agreement, you will be eligible for the following benefits:

[insert relevant benefits, including severance pay, COBRA, and outplacement.]

Unemployment

You are eligible to file for unemployment. If applicable, any required state form(s) will be included in your documents.

Return of Company Property

Explain what property would need to be returned, such as a laptop or company-issued phone, and how it should be returned. For example, will you provide a prepaid FedEx box? Make it as easy as possible for the employee to return the items.

Don't be insensitive or disrespectful to your employees.

Better.com CEO Vishal Garg should have known better. He laid off 900 employees via a Zoom call and blamed the need for the action on those employees' performances. And "Crying CEO" Braden Wallake of marketing agency HyperSocial went viral for his LinkedIn post, in which he cried about how the layoffs at his organization were affecting him.

Close with the following:

Would you please provide me with your personal email address, phone number, and mailing address? [Record the responses.]

I want to thank you for your time today. Please do not hesitate to contact me if you have any questions. My contact information will be in the email containing your separation information.

Your contributions to the company are truly appreciated. Best of luck to you, [Name].

What to do if the employee becomes hostile or upset:

Prepare responses in case the employee makes threats or inappropriate comments or wishes to challenge any part of the separation.

"You're about to change their life. You're taking their job from them. And they're sitting there thinking, how do I go home and tell my partner, my spouse...what am I going to say to my kids when I'm not getting up to go to work tomorrow? Always remember that very human piece."



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Provide a FAQ document with answers to common questions

Employees will often be too overwhelmed during notifications to think of questions they may have. Even though you'll provide them with your contact information, having a document with answers to common questions will ease their anxiety and reduce their need to contact you. Include information on the following topics:

Healthcare and Other Insurance

Employees may have questions about whether coverage for these benefits will continue, what date it will end, and whether they need to take action to extend their coverage.

- Employee Assistance Program (EAP)
- Medical, Dental, and Vision Insurance
- COBRA
- Spousal and dependent coverage
- Life, AD&D and voluntary insurance
- Short-term Disability and Long-term Disability Insurance
- Accident/Critical Illness/Whole Life/Hospital Indemnity Coverage
- Long-term Care Insurance

Spending and Reimbursement Accounts

Employees may want to know when contributions will end, whether they'll be able to access balances, and deadlines for submitting final expenses.

- Health Care Flexible Spending Account
- Health Savings Account
- Dependent Care Flexible Spending Account
- Commuter Reimbursement Account
- Travel and other business expenses



401(k) Plan

Offer information about taking distributions, rolling over funds to an IRA or new employer's plan, and 401(k) loans if the employee has taken one.

Final Pay

Include answers to questions about when and how final pay will be paid and what will be included in the payment (such as unused vacation pay). Also detail severance pay and how and when that will be paid, including any information on tax deductions.

Unemployment Benefits

Offer information on eligibility for unemployment benefits and how to apply.

Employment Verification or References

Explain the company's policy on providing employment verification or references to potential employers.

Outplacement

While employees may not be familiar with the term "[outplacement](#)," it will be helpful to them to include a description of the service, explaining that the program offered is free to them and is provided to help them create professional resumes, tailor their job search strategies, provide guidance on LinkedIn profiles, prepare for interviews, and more.

Facilitate a dignified exit

Most employees undergo separations through no fault of their own. They are friends and colleagues of your remaining team members and individuals who deserve to be treated humanely on their way out.

Unless a security issue requires that you do so, avoid escorting an employee out as if they were a criminal. Allow them to say goodbye to teammates, if possible. Not only will they remember you for your consideration, but those they leave behind will feel better about the situation when they know you took care of their less fortunate coworkers.

"I worked in a manufacturing facility where some of our employees had been there since they were 18. They were maybe in their thirties or forties when they got laid off, and they hadn't interviewed since they were 18 and had never created a resume. It was so comforting to be able to say to them, don't worry; we're not dropping you into the deep end of the pool. We're going to give you some support."



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Do take care of your remaining employees

How you handle layoffs affects your impacted employees and [remaining team members](#), who are their colleagues and friends. These employees, who may be dealing with survivor's guilt and grief, often must take on additional responsibilities due to their coworkers' departures, which can compound their stress.

How can you boost morale?

1. Follow the recommendations of this guide.

Conduct layoffs with sensitivity, respect, and careful planning.

2. Be transparent.

Notify your remaining employees of the layoffs, explaining the reasons for the action and how employees were selected, and acknowledging the impact of the situation.

A message like this can go a long way: "I want to acknowledge what happened today. A valued colleague was let go today, and I know that impacts many of you. It's not lost on me how they may be feeling and how you all may be feeling. Please know that we take these decisions very seriously, and we strive to do what is right for our employees while balancing what's needed for the company. We ensured your colleague was treated with the dignity and respect they deserve."

Then, discuss the plan for moving forward. This will help to reduce uncertainty and anxiety.

3. Offer career development opportunities.

Providing ways for employees to continue to grow even in the face of change will help them and your organization to be agile and resilient. Upskilling courses, career coaching, mentorships, workshops, and training programs ensure these team members can take on the challenges ahead of them while keeping them engaged.

4. Conduct regular check-ins.

From manager/employee one-on-ones to departmental scrums to all-staff meetings, frequent check-ins with employees are vital to measuring morale and ensuring team members aren't becoming burned out. Ensure managers are equipped to offer support, whether that means training them internally or bringing in outside coaches to guide them.

5. Recognize and value employees' contributions.

Let employees know that their work matters and how it contributes to the organization's success. Recognize their efforts in all-staff meetings, emails, and newsletters. Provide them opportunities to work on special projects, award extra days off, or give them gift certificates to show appreciation.

Don't forget about the rest of your workforce.

After a Cloudflare employee recorded her layoff conversation with HR, expressing concerns about the process and lack of prior feedback, the video went viral. It resulted in a decline in employee trust and morale.

Conclusion

Thoughtful process creation and planning done before a need arises help minimize potential negative repercussions of employee separations on the organization and employees. Handling such events with care and consideration can preserve a company culture and employer brand, lessen attrition, and maintain engagement.

INTOO offers support for separated employees through unlimited personalized 1:1 [career coaching](#) and seamlessly manages account needs to lessen the burden on your HR team. [Contact us](#) today to learn how we can partner with you to ease the impact of separations for your outgoing and remaining employees.



"Sometimes the employee will stop and say, what do I tell people? Do I tell people I got fired? The really nice thing to be able to say is we have an outplacement service, and they are going to coach you through having those conversations."



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Watch the webinar recording, [What Went Wrong? Viral Employee Exit Disasters](#), featuring HR expert Christina Myers of Vericast, for more separation best practices.



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