


# Seasonal Setbacks — How to Prepare for Holiday Layoffs and Employee Transitions

**Compliance and Ethics**



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Toward the end of the year and the holiday season, budget cuts and layoffs tend to increase in the workplace. As a result, in-house counsel can be called upon with the dreadful task of conducting holiday layoffs. Now is the time to make sure your organization is taking the necessary precautions and following policies set in place when terminating an employee.

The primary reasons cited for the increase in layoffs this year are AI technology taking over functional roles, economic downturns, over hiring, etc. It is always suggested to give advance notice to employees, so they are not surprised by this decision.

## Duty to WARN

Under the Worker Adjustment and Retraining Notification (WARN) Act and mini-WARN laws, your company should give an adequate amount of notice if planning a mass layoff. If your company fails to do so, pay and benefits must be awarded to the terminated employee. Severance policies differ — severance pay is the amount paid to an employee upon the dismissal or discharge from employment. If there is no contract stating severance pay will be provided under these unfortunate circumstances, then it unfortunately does not apply. Employers may do so, only through generosity or to protect their organization from legal hardships.

Stay compliant with your states WARN laws and your company's severance policies, to avoid a possible legal suit and financial loss.

It is important to prepare yourself and your company ahead of time to protect yourself legally if you are administering layoffs this holiday season. Here are some key tips that can be beneficial should you be faced with discharging an employee.

- **Continuously update your company's severance policy.** Assure your severance policy is clearly stated on your company's internal site and up to date. This is to avoid any future lawsuits.
- **Adhere to progressive discipline policies.** Was this employee given enough time to improve their performance before termination? Stay mindful of all the written policies in place before making a final decision that could ultimately backfire if not followed through properly.
- **Review and verify that you are following state laws.** The termination process must abide by state and federal laws to ensure an employee was not wrongfully or unfairly let go.

No one wants to have the responsibility of terminating staff members, but sometimes it has to be done. Always stay one step ahead, have a plan in place if your organization if gearing up for holiday layoffs. Review ACC's checklists for Preparing for Your Reduction-In-Force and Employee Termination, produced in partnership with Ogletree Deakins, detailing various issues to consider when discharging an employee.

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