

EMPLOYER CHECKLIST

Lay-off and Reduction-in-Force Considerations

I. TIMING ISSUES

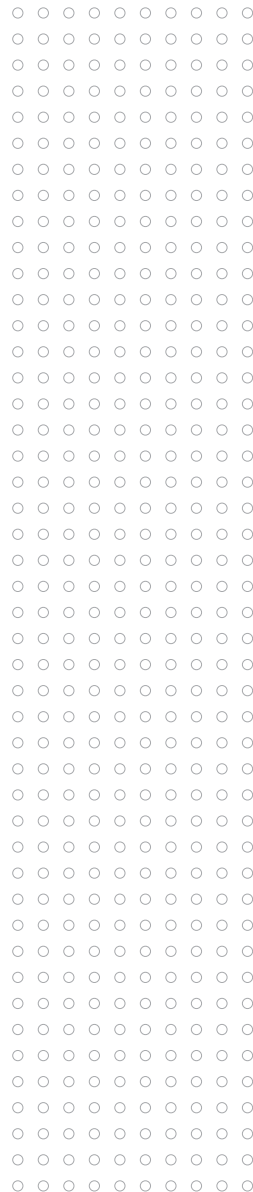
- A. When will the layoff occur?
- B. Has it already been announced? If not, when does the company plan to announce it?
- C. If severance packages are being considered, when does the company want to give them out?
 1. Prior to termination
 2. On termination date

II. WHERE WILL THE LAYOFF OCCUR?

- A. Determine any applicable state or local plant shutdown or layoff notice requirements (i.e. WARN Act, CBA requirements, contract requirements, etc.)
- B. Any state/local unemployment obligations?

III. COMPANY INFORMATION NEEDED

- A. Collective bargaining agreement
- B. Layoff policy
- C. Severance policy
- D. Seniority policy
- E. Vacation policy



- F. Termination policy
- G. RIF policy
- H. Any other policies which may affect or be affected by the layoff.
- I. Employment contracts
- J. Non-compete agreements
- K. Confidentiality agreements
- L. Trade secret information
- M. Offer letters
- N. Organizational charts
- O. Once the appropriate decisional unit is decided upon, obtain a complete employee listing for the facilities/lines of businesses/job classifications involved:
 1. This listing should contain: Employee name, plant, department, division, age, race, sex, DOH, departmental seniority date.
 2. It should also list:
 - a) For an involuntary RIF, whether the employee is selected or not selected.
 - b) For a voluntary RIF, whether the employee is eligible (or not) to take the severance package

IV. WHAT IS THE SELECTION PROCESS TO BE USED FOR THE INVOLUNTARILY LAYOFF?

- A. Seniority
 1. Overall seniority
 2. Within a department
 3. Within a job or classification
 - a) Impact of employees recently transferred into the job or classification.
 - b) Impact of newly hired employees in the job or classification.
 - c) In reviewing the impact of the above two, consider arguments that employees will make if all the layoffs take place in jobs or classifications other than the jobs or classifications held by the transferred or newly hired employees.

B. Merit

1. Criteria to be utilized
2. Objective vs. subjective
3. Use of disqualifiers (attendance, disciplinary actions, etc.)
4. Use of previous evaluations
5. Use of new evaluations specifically designed for the layoff
6. Current company needs versus future needs
7. Tie breakers
8. Who performs ratings?
9. Review of ratings
10. Analysis of impact of merit selections on age, race, gender, etc.

V. SEVERANCE

A. Applicable Severance Policies

1. Will there be a severance paid for the RIFed employees?
2. Is there already a company policy or ERISA plan covering the severance?
3. Do any employees have individual employment agreements that might have a severance provision or otherwise affect a RIF decision?
4. Does the company want to follow the plan/policy or does the company want to do something different?

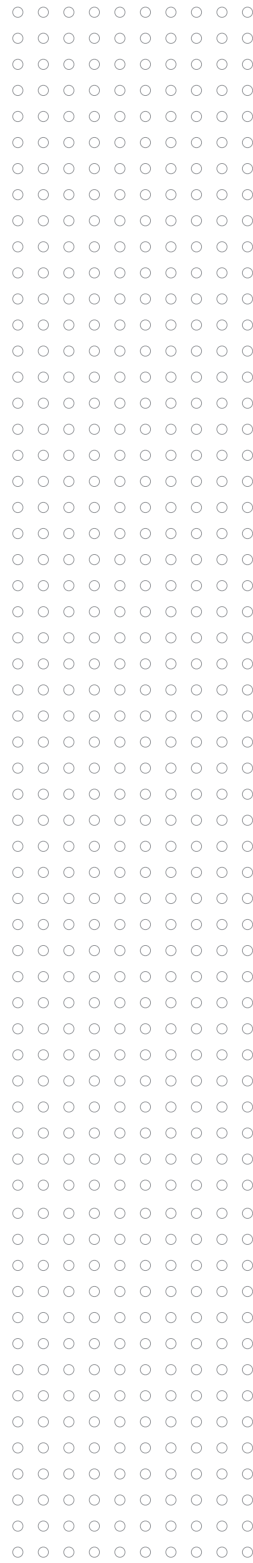
B. Release Issues

1. What specific terms does the company want to put in the release?
2. When does the company want to issue the packages?
3. When does the company want the releases signed?
4. Different releases for over 40/under 40 groups?

C. Miscellaneous

1. How does company want to handle vacation, PTO, 401(k), etc.
2. Who will send benefits continuation information? (COBRA, Life Insurance Conversion, etc.)
3. How does company want to handle retirement/severance overlap?
4. Does the company want the employees to be able to draw Unemployment compensation during the severance period? If so, state law considerations for the payment of unemployment must be considered. Some states will not allow employees to draw unemployment if they are receiving severance pay. Other states will allow it if it is a bonus as opposed to a payout.
5. Decisional Unit:

- a) What is the scope of the employee population looked at for selections in an involuntary RIF or for determining the eligibility for a voluntary layoff?
- b) At what corporate levels will the selection/eligibility decision occur?
- c) At what level will the decisions be reviewed?
- d) Will the decision be focused on:
 - i. A particular facility?
 - ii. Part of a particular facility, such as a RIF focused on a
 - iii. Particular plant department?
 - iv. A line of business that comprises subparts at various company locations, such as accounting department, personnel who report back to a main office, or sales department personnel?
 - v. A RIF focused on a particular job classification, either at a facility or throughout the company or division?



VI. AGE/JOB DATA CONCERNS

- A. Obtain age/job title/department
- B. Verify proper job classifications used
 - 1. Current, not future
 - 2. Levels "I" or "II," "A" or "B," etc.
 - 3. (c) Evaluate proper sorting of list
- C. Age information issues
 - 1. Eligibility concerns
 - 2. Deadline for decisions

VII. DISCRIMINATION ANALYSIS

- A. Conduct statistical analysis of overall selections based on merit
 - 1. Age
 - 2. Race
 - 3. Sex
 - 4. National Origin
- B. Analyze for possibility of individual disparate treatment claims based upon logical comparators in similar jobs, classifications, etc.