Reduction in Force Best Practices Checklist

In this economic climate, it is vitally important that all employers have a plan and written layoff policy in place before the need arises, to be used in the event of terminations, program eliminations, or layoffs. A solid plan for reduction in force ("RIF") will help employers defend against challenges by displaced employees, including discrimination lawsuits and breach of contract actions. On a human level, worker morale must be considered; no one wants to be left in the dark about what is happening in regard to his or her employment.

This checklist and the information contained herein are not intended to be an exhaustive or detailed list of requirements, do not constitute legal advice, and do not serve as a substitute for the advice of knowledgeable legal counsel. Its objective is to alert HR professionals to best practices of which they should be aware for RIF compliance and planning purposes.

✓ Reduction in Force Best Practices Checklist

What to Include in an RIF Plan

☐ The company policy and reasons for a reduction in force
☐ The criteria used for the selection of individuals or programs for restructuring or termination
☐ An explicit program for communicating news to employees
☐ Available outplacement assistance

RIF Best Practices

☐ Explain the RIF in terms of the company's fiscal and operational needs
☐ Explicitly identify the reasons for the downsizing
☐ Prepare statements of revenue and expenses to determine cost saving areas
☐ Identify all possible sources of additional revenue
☐ Demonstrate that other employment and non-employment related cost saving options were considered before resorting to layoffs, including, for example:
  ☐ Eliminating equipment, supplies, and overhead expenses
  ☐ Salary and travel freezes
  ☐ Work week/hour reduction
  ☐ Job sharing
  ☐ Benefit plan reduction
  ☐ Outsourcing of some services
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- Early retirement options
- Voluntary separation offers
- Evaluation of operating budgets for all departments
- Review all employment contracts and collective bargaining agreements
- Consider and document the factors (seniority, job performance, other) that will be the basis for deciding which employees will be terminated
- Consider the employees selected for termination for potential disparate impact upon minorities, paying particular attention to the following statutes:
  - Title VII, which prohibits employment discrimination based on race, color, religion, sex, or national origin
  - Age Discrimination in Employment Act/ Older Workers Benefits Protection Act ("OWBPA")
- Comply with all federal and state WARN Acts
- Obtain releases from employees impacted by a workforce reduction, being mindful of the special considerations for securing releases from employees aged 40 or older under the OWBPA
- Have your legal department review all RIF decisions