

# CHAPTER

# 16

# Terminating Employees

## Chapter Overview

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After reading this chapter, readers will:

- Understand the roles of human resources and department managers in terminating employees whether discharged for cause, dismissed for performance reasons, or laid off as a result of reductions in force
- Be able to explain the concept of constructive discharge
- Be prepared to discuss conditions that contribute to mass terminations or layoffs
- Know the sequence of steps to consider before deciding to lay off personnel
- Be familiar with a means for determining who is discharged and who remains in a layoff
- Understand related dimensions of termination, including unemployment compensation and employee privacy
- Be able to discuss the potential effects of a reduction on the survivors and suggest how management can address these issues

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## ■ CHAPTER SUMMARY

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Terminations of employment are inevitable. These include positive terminations such as retirements and resignations as well as negative experiences such as firings and layoffs. Involuntary termination involves the end of employment at the request of management. There are two types of such terminations. Dismissals occur either when individuals fail to meet the standards of their job or as part of a layoff. Discharges occur when employees are released for reasons of conduct or behavior usually involving violations of policies or work rules. Discharges are an ongoing concern because they

may be necessary at any time. Most dismissals, other than a relative few related to job performance, are layoffs for reasons such as reengineering or downsizing, mergers, other affiliations or economic forces. Layoffs are traumatic occurrences that sever some personnel from their employment and adversely affect the morale and motivation of survivors. Properly handled, layoffs require the guidance of human resources (HR) and the active participation of supervisors at all levels of management.

### **Case Study: The Case of Joan von Willebrand**

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Joan von Willebrand was a phlebotomist at City Hospital. Her supervisor, George Parker, worked as a member of the phlebotomy team. George reported to Gloria Garcia, a unit manager of the laboratory.

Joan had been employed at City Hospital for five months when she was discharged for chronic tardiness. Gloria initiated the discharge with the concurrence of George. When the matter was turned over to HR, Gloria told HR that Joan had been given written warnings for clocking in more than 30 minutes late on three prior occasions. Gloria also said, “There were numerous other occurrences that had been overlooked or that had resulted in undocumented oral warnings.”

Joan complained that the 6:30 A.M. starting time for the morning blood-collecting rounds was too early for her. She stated that as a single mother, she had the responsibility of looking after one child. Even though she lived with relatives, she had difficulty getting to the hospital on time. She also stated that when she was hired, George had led her to believe that the blood-collecting job was temporary and that a regular opening in the lab, starting at 8:00 A.M. would be available in two or three months.

Gloria had criticized George for being too lenient and for not following organizational policies. He had delivered an initial oral warning as required. However, on subsequent occasions, he repeated the oral warning and never issued written warnings. She said that George was inconsistent in his behavior, often not reprimanding her for behavior that did not comply with organization policy. George started delivering written warnings after Gloria prompted him to do so. According to hospital policy, four written warnings for tardiness constituted grounds for discharge. George gave this information to Joan each time she received a written warning. After receiving the fourth written warning, Joan was fired.

Although George and Gloria both admitted to the possibility of mentioning a regular technician job in the future, they were both convinced that there had been no promises. The HR recruiter supported these facts and said that he had also mentioned to Joan the possibility of moving into a different job should one become available but had made no promises.

Joan took her complaint to the State, claiming that her firing was unwarranted and unfair. Although she had been late a few times, she said, she

never failed to stay and make up the time and that she had always performed her assigned duties. However, George cast some doubt on this claim. He said that on days when Joan was late, he and another technician had to cover extra territory to make up for the missing employee.

Joan charged that the written policy meant very little because early in her employment she had been late several times, but on these occasions she had not received warnings. She charged management in general, and Gloria in particular, with using the tardiness policy as an excuse to get rid of her.

What procedural errors were made in the handling of Joan von Willebrand's case? How would you rule on Joan's claim? On what basis would you base your decision?

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## ■ INVOLUNTARY TERMINATION

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This chapter addresses involuntary terminations. These include discharges for cause, such as violations of policies or work rules and dismissal for reasons of performance. These latter terminations include layoffs and reductions in the work force. Questions occasionally arise in relation to supposedly voluntary terminations, such as resignations and retirements. With these exceptions, voluntary terminations are not included.

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## ■ INDIVIDUAL TERMINATIONS

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### Discharge: Termination for Cause

Discharge and dismissal are different. Discharge is commonly referred to as being fired. Discharge usually occurs after employees break organizational rules or violate organizational policies. Dismissal typically occurs for reasons related to performance such as failure to pass the probationary period or failure to meet the minimum standards of a job.

Most managers dread having to fire someone, even if the employee completely deserves the termination. Dismissal is also a managerial task that is not easy, and it rarely becomes easier. Before a termination is undertaken, the manager must work with HR and must be in agreement with HR concerning the details of the termination and agree that all required information is available.

From an employer's perspective, terminations that involve the least risk to an organization are those for which good cause is evident. Managers must ensure that their organization closely followed its own policies, and that the organization can demonstrate that the discharged employee was given every reasonable opportunity to correct the offending behavior. This question is often pertinent.

The supervisor or HR must ensure that organizational policies have been followed. Adherence to the progressive disciplinary policy is critical. It is essential to ensure that all required documentation is complete and in place. The most critical dimension of termination for cause is ensuring that management and HR observe all necessary policies and processes. Despite the best efforts of department managers and HR, unexpected circumstances can surprise an organization. For example, a written passage in an employee handbook stating that an employee who passes probation becomes permanent has been interpreted as constituting an employment contract. Such an interpretation has been used to protest discharge. When such problems are encountered, they are corrected. Using this example, a formerly permanent employee is given “regular” status.

A department manager must prepare for the possibility that a member of a protected class may claim discrimination when being discharged. A wrongful termination lawsuit is usually frustrating, costly, and time-consuming. An organization’s best protection against wrongful termination policies are fair personnel policies that are consistently applied. Performance appraisal systems must be fair. All documentation must be complete and available. Above all, organizations must have clear evidence of employee wrongdoing.

### **Dismissal: Inability to Meet Job Standards**

An individual is not at fault in a dismissal. This is an essential difference between dismissal and discharge. Dismissal relates to performance. Because no rule is broken or policy is violated, dismissal for inability to meet the standards of the job or for failure to pass the probationary period is treated as a layoff. The distinction becomes important when dismissed employees apply for unemployment compensation. A discharged employee is ineligible for unemployment compensation. A dismissed employee is eligible for unemployment compensation.

The majority of employees who are involuntarily separated apply for unemployment benefits regardless of the circumstances under which they were let go. They do so because they feel they have nothing to lose. Discharged employees are frequently granted unemployment compensation contrary to the fact that they were discharged for cause. States have the legal responsibility to determine when individuals should receive unemployment compensation.

### **Constructive Discharge**

Occasionally some managers will behave as though they believe that the most effective way of getting rid of an under-producing or uncooperative employee is simply to keep piling on work, or otherwise making life miserable, until the person finally quits. Such managers reason that persons

who voluntarily resign are not eligible for unemployment compensation. They incorrectly conclude that they have solved a problem without cost to their employer. To the contrary, there is a significant risk in using this approach to getting rid of an employee.

The concept of constructive discharge becomes an issue when a former employee registers a legal complaint alleging that the organization, as represented by one of its managers, made life so difficult and unbearable that the individual had to resign. The alternative of remaining usually involves experiencing physical illness or emotional damage. A resignation that is forced by extreme or intolerable conditions or treatment may be considered a constructive discharge. A resignation tendered under such conditions is not considered strictly voluntary.

Another potential constructive discharge situation occurs when an individual who is approaching termination for cause is allowed to resign in lieu of discharge. Well-intended managers may suggest that an individual resign for the record in lieu of discharge. They think that it is better for individuals to avoid having an involuntary termination in their personnel records. Such behavior exposes an organization to a claim of constructive discharge. It is far more prudent for an organization to conduct a well-documented discharge in accordance with organizational policy.

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## ■ REDUCTIONS IN FORCE

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There are several reasons that compel organizations to alter the numbers of their employees. Growth supports increases in employee counts. Other forces cause organizations to reduce the numbers of their employees. These include downsizing, reengineering, mergers, acquisitions and other combinations. Organizations use several methods to reduce the number of employees, including layoffs and terminations.

### **Reengineering**

Healthcare organizations entered into reengineering a few years after it peaked in manufacturing. Reengineering is the systematic redesign of a business's core processes, starting with desired outcomes and establishing the most efficient possible processes to achieve those outcomes. Reengineering is often referred to by other names including downsizing, rightsizing, reorganizing, repositioning, revitalizing, and modernizing, although reengineering is in fact a considerably more complex undertaking than these other named processes. Nevertheless, to most employees, reengineering has a single significant result: job loss. Mentioning the term alerts employees to the likelihood of layoffs. In hospitals, 81% have reduced their employee staffs through layoffs or attrition, and nearly half have laid off managers.<sup>1</sup>

Employee morale is likely the most severe HR problem in the health-care sector, and layoffs are the main cause of morale problems. There is apparently no way to avoid the conclusion that reengineering is synonymous with eliminating jobs.

### **Mergers, Acquisitions, and Other Affiliations**

Mergers, acquisitions, and other forms of affiliation have become common in contemporary health care. Because these recombinations usually are made in response to financial pressures, they usually mean the loss of jobs.

Systems often promote diversification and breadth of services. Not-for-profit systems usually are more diversified than for-profit systems. For-profit systems are more likely to be specialized. They are far less likely to maintain a service that is not profitable. Not-for-profit systems are more likely to carry unprofitable services for the sake of remaining full-service to the communities they serve. Little evidence exists to suggest that hospitals belonging to multi-organizational systems are any more efficient than are freestanding hospitals. In some parts of the country, systems and other alliances have been the salvation of endangered rural hospitals but usually at the cost of job loss in the rural communities.

Mergers frequently lead to the reduction of management jobs as well as staff positions. Consider the merger of two small-town hospitals located not far from each other. The merger involved combining parallel departments from both institutions under a single management structure. For example, where two clinical laboratories with two managers once existed, they were combined into a two-location laboratory department with a single manager. Because of this merger, twelve managers were eliminated, and each of the managers who remained was left with a greatly enlarged span of control.

The process of consummating a merger is usually considerably more difficult and more expensive than what was originally anticipated. Employees of one organization usually fear absorption by the other organization and the loss of their identity. This happens even in a merger of so-called equals; one organization absorbs the other.

Consolidation expenses can be high. Organizations can require an extremely long time to recover their merger expenses through lower operating costs and improved efficiency. Organizational recombinations can be highly disruptive to staff in a number of ways as conflicting organizational cultures are forced to mix. The human side of merger or acquisition is rarely given sufficient attention. Emotional issues that can make or break a merger usually take a distant second place to the financial issues.

When organizations explore the possibility of merger or affiliation, little information is likely to be available. However, once the possibility of a merger becomes known, employees will become uneasy. Successful super-

visors maintain a dialogue with their employees. They listen to their concerns and keep them informed. They keep lines of communication open and provide the best information that is available. Honesty is an absolute requirement for maintaining personal credibility.

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## ■ LAYOFFS

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### **Other Considerations First**

Department managers and HR staff experience considerable stress when they are ordered to implement mass layoffs. When a layoff is impending, an organization should plan to take other steps that frequently precede a layoff. All realistic steps that do not involve layoffs should be taken. An early step should be eliminating the use of all temporary employees. Another early step is imposing a hiring freeze. By stopping the influx of all but essential staff, such an action provides time to consider internal reallocation of personnel.

Following a hiring freeze, closing open positions can reduce the total number of employees without releasing people. If the reduction in staff is to be extensive and likely to be permanent, executive management should consider offering a voluntary termination incentive. Organizations might also consider offering an early retirement incentive. Early retirement incentive plans are helpful but can be risky. Specific individuals or groups cannot be targeted. To do so is discriminatory. An additional risk is that key employees may actually leave.

### **Who Goes and Who Stays?**

A department manager is usually involved in determining which employees leave and which ones stay. Personal preferences must be subordinate to established organizational guidelines. All organizational guidelines are established with the guidance of legal counsel. Selection for layoff is most often accomplished by seniority, although this is not an absolute requirement unless a contract governs selection for layoff. Seniority may not be the sole factor. For example, assessment mechanisms may consider a combination of factors that may include performance as reflected by appraisals, attendance, conduct as reflected by disciplinary actions, and seniority.

Many organizations have determined that seniority is the fairest and safest means of determining who leaves and who remains. Using seniority alone, questions remain about how it is determined. Seniority can be determined by time in the organization, time in a specific department, time within a particular task or job class, or time within a department.

Related to the degree of seniority is the process of bumping or displacement. Bumping occurs when the job of an individual is eliminated. Persons of greater seniority are allowed to displace or bump persons having

lesser seniority from their positions. This process continues until the person having the least seniority is laid off. Bumping can be simple or extremely complex, depending on the rules that are in place.

In addition to utilizing temporary employees, healthcare organizations actively use many part-time employees. An official approach taken to selecting employees for layoff may include guidelines governing the order of reduction based on work status. For example, temporary employees are discharged first, followed by regular part-time employees. Their status typically puts them ahead of regular full-time employees when determining who will be released.

Whatever combination of factors is used by an organization, consistency in how the guidelines are applied is critically important. Ideally, an organization should have a personnel policy to govern staff reductions. Such a policy should be in place well before reductions ever become necessary. However, in many organizations, no policy is created until the need for reductions becomes apparent. Exhibit 16-1 contains a sample reduction-in-force policy illustrating how one organization has addressed most of the foregoing concerns. If employees are represented by a union, a collectively bargained agreement between employer and union will delineate how employees are chosen for layoff.

Once a layoff plan has been created, personnel from administration and HR and legal counsel must assess the proposal to ensure that it is not biased. Charges of discrimination are likely if patterns based on age, gender, or race emerge among those slated for layoff. For example, organizations wanting to reduce personnel costs have laid off higher paid employees. As these people tend to be older, the resulting process can be considered discriminatory. All scenarios must be examined before a layoff plan can be considered to be workable and non-discriminatory.

The goal of an ideal layoff will be an organization that has reduced its personnel costs but retained its best employees. Rarely is such an ideal outcome achieved. Compromises must be accepted as a consequence of being fair to all employees. Older employees tend to earn higher salaries, and they are often protected by seniority. Younger employees may earn lower salaries and possess critical skills. While these traits are desirable to an organization, younger employees lack seniority. Layoffs should not be undertaken without considerable deliberation.

### **The Timing of Layoffs**

The timing of reductions is an issue for which there are no easy or unambiguous solutions. From the perspective of employees, timing is irrelevant because layoffs contain no positive benefits. Consultants and HR professionals who develop reduction plans and policies disagree on whether it is best to phase in reductions over a period of time or accomplish all layoffs at once. Both approaches have shortcomings.



### **Exhibit 16-1 Model Policy and Procedure: Reduction in Force: Policy and Practice**

#### **Policy:**

The relative security of the organization's employees is best served by continuous employment. However, occasions may arise when reducing staffing levels is necessary because of changing financial or operational circumstances. The objective of this policy is to provide a rational basis for reducing staffing levels in the event such adjustments are necessary.

#### **Definitions:**

<i>Department</i>	A cost center or a set of cost centers having common positions, tasks, functions or duties that report to the same manager.
<i>Organizational seniority</i>	An individual's uninterrupted service time as a full-time or part-time employee, adjusted for approved leaves of absence.
<i>Department seniority</i>	An individual's uninterrupted service time as a full-time or part-time employee of the present department or unit, adjusted for approved leaves of absence.
<i>Incumbent employee</i>	An employee currently occupying an approved full-time or part-time position.
<i>Qualified employee</i>	An individual who possesses the stated qualifications for a specific position by virtue of education, experience, or both, and can either presently perform in that position or achieve standard performance within the normal introductory period.

#### **Determining Staff Reductions:**

##### **A. Work Force Composition**

1. Establishing the size, composition, and distribution of the work force remains a prerogative of management.
2. Before deciding that staff reductions are necessary, management will investigate alternative processes that can avoid a reduction or lessen its impact. Staff reductions will proceed only after all reasonable alternatives have been either implemented or eliminated from consideration.
3. When circumstances necessitate staff reductions, management shall determine the numbers and kinds of positions to be eliminated.

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**Exhibit 16-1 Model Policy and Procedure: Reduction in Force: Policy and Practice (cont.)****B. Guidelines Affecting Incumbent Employees**

1. Nonexempt employees, excluding those in designated essential positions that may be designated by management, shall be subject to layoff generally by job assignment and by department according to staffing needs.
2. Employees working within a specific job assignment and department will be ranked using the following criteria:
  - Appropriateness of individual qualifications and experience in meeting the hospital's needs
  - Past personal performance (average of the three most recent performance appraisals)
  - Disciplinary counseling or warnings within the past twelve months

**C. Organizational Seniority**

1. Each of the foregoing criteria may account for up to 25% of the ranking decision for an employee. From time to time, depending on circumstances and need, management may devise rating scales to facilitate employee ranking.
2. After all employees within a department or job assignment are placed in rank order, selection for layoff will proceed in reverse order of the list.
3. Employees remaining in a department following a staff reduction may be subject to changes in hours and shift schedules and work assignments as necessary.
4. Management may exercise the right to displace less senior nonexempt employees in one department with qualified nonexempt employees from another department who have greater organizational seniority, providing that this is accomplished within similar job assignments and without significant disruption of departmental operations.
5. Management, physicians, and other exempt positions, and particular technical and professional nonexempt positions that may be designated, are subject to position-specific reductions without regard to seniority or other factors. The principal criterion for determining the status of such positions will be their appropriateness in meeting the needs of the organization.
6. Any employee identified for layoff will be considered for other possibilities such as transfer or demotion to a position in an area of need. Whenever possible, employees will be allowed to choose from available alternatives. Employee requests for reassignment to alternative positions shall be honored solely

**Exhibit 16-1 Model Policy and Procedure: Reduction in Force:  
Policy and Practice (cont.)**

at management's discretion. Displaced employees who decline an alternative position will be dismissed.

**D. Administration of Reduction**

1. Department managers will identify the positions to be eliminated and will furnish administration with a list of those positions and incumbent employees.
2. Administration and HR will review potentially affected employees proposed for possible transfer or reassignment to areas of need, if any, and will make recommendations as appropriate.
3. Human resources will submit departmental lists of employees recommended for layoff to the appropriate Vice President and the President.
4. Following executive approval of layoff, HR will coordinate with department managers to arrange for providing employees with proper notification of termination date and information concerning terminal benefits.
5. Each affected employee will be offered an exit interview intended to cover:
  - Method and timing of payment for accrued vacation time
  - Status and conversion of insurance coverage
  - Pension plan vesting, if appropriate
  - Unemployment compensation procedures
  - Reinstatement rights, if any
  - Recommendations or referrals for external placement, if any

**E. Other Considerations**

1. Every effort should be made to eliminate the use of all temporary employees before regular employees are considered for layoff.
2. An employee who is still in the introductory period (the first six months of employment) does not need to be re-ranked with others according to B.2. If such an employee's job is eliminated the individual is to be considered dismissed due to lack of work.
3. In the displacement of an employee as described in B.4, a full-time employee may displace another full-time employee or a part-time employee, but a part-time employee may only displace another part-time employee with equal or lesser hours.
4. For employees about whom a recommendation for layoff depends in part on performance or disciplinary issues, appropriate supporting documentation must be in the personnel files.

### Employee Ranking Scale

(a) Qualifications/Experience	
Still learning the job	0
Fully trained but limited experience	2
Fully trained and experienced	4
Fully trained in multiple areas, cross-functional capability	6
(b) Past Performance	
Average of 3 most recent evaluations < 3.5 (standard)	0
Average of 3 most recent evaluations 3.5 to 4.25	2
Average of 3 most recent evaluations 4.26 to 4.70	4
Average of 3 most recent evaluations > 4.70	6
(c) Disciplinary Counseling/Warnings (Recent 12 Months)	
Multiple problems; suspended one or more times	0
More than 2 counseling, <b>or</b> no more than 2 warnings	2
1 or 2 counseling, <b>or</b> 1 warning	4
No counseling, no warnings	6
(d) Seniority (Organizational)	
Less than 1 year	0
1 to 2 years	2
2 to 5 years	4
More than 5 years	6

**NOTE:** This ranking scale is applied to groups of employees who work within the same job description and are engaged in the same general activities. Employees in the group should be arrayed from highest (possible 24) to lowest, with the lowest rankings receiving first consideration for reduction.

When layoffs are phased in over a period of time, morale and productivity decrease as everyone waits and wonders who will be next. Teamwork becomes a distant second to individual survival. The effect spreads across an entire organization. If the reduction is expected to include managers, then it will permeate all levels of an organization. As morale is lost, it tends to be replaced with anger. Over time, organizational chaos will occur.

Even when a layoff is significant, far more people usually remain working than were released. Prolonged layoffs take their toll on the morale and attitudes of those who remain. Time is required for healing. The time is proportional to the magnitude of a staff reduction. Layoffs that are prolonged and that inflict pain require more time for recovery. Phased-in layoffs are easier to administer. Operating managers have more time to

adjust layoff schedules. However, from an employee perspective, they produce more stress and anxiety than a single mass layoff.

### **Other Layoff Considerations**

Most organizations employ some form of severance policy in conjunction with layoffs that are considered permanent. These are reductions in which employees do not have a realistic possibility of being recalled to work within a reasonable period. Severance pay is ordinarily based on an individual's final salary in combination with length of service. It is usually capped at a stated maximum number of years. A common example of severance pay determination is one or two week's pay for every year of service. An alternative is to provide two week's pay per year of service to a maximum of, for example, 15 years. On average, health care organizations tend to offer less generous severance pay than can be found in other industries such as manufacturing.

In exchange for a severance pay arrangement, and possible outplacement assistance, an organization may ask a departing employee to sign a waiver of the right to sue. In doing so, an employee agrees not to bring charges related to the termination in trade for what is likely to be a more generous severance arrangement than would otherwise be obtainable. However, employees often successfully challenge such waivers after the fact. In reality, they provide no guarantee that legal complications will be avoided.

When a layoff is coming, all employees should be given the reasons for the action. The approach should be as straightforward as possible and accompanied by as much detail as is available and should be readily understood. Economic issues are the basis for most layoffs. While some employees will choose not to believe the reasons they are given, if no explanations are provided, employees will feel that they are being treated in an unfair manner. Ideally, employees should be kept advised of an organization's financial health on a regular basis. Reminders that layoffs are possible may be useful. Surprises should be avoided. The reality of a layoff is sufficiently shocking when it is announced even if employees expect one.

### **No Easy Time**

From the perspective of management and HR, nothing is easy about implementing a reduction in force. However, managers and HR have a far easier time than do the employees who are being laid off. The initial impact is invariably stressful for both laid-off employees and those who remain.

Feelings of anger and betrayal are normal among employees who are laid off. Terminated employees face psychological stress and economic hardship. Personal routines are disrupted, as are relationships that may have existed for years. For all practical purposes lives are turned inside out as individuals are thrown into a mode that some of them may never have experienced. Those who have experienced employment displacement do not look forward to repeating the experience.

For many individuals, the loss of a job is as traumatic as a death in the family. The grieving process is proportional to the degree of loss. Employee assistance programs and other resources may be used to help ease the transition for both laid-off staff and stressed-out survivors. The overall impact of a reduction in force is eventually healed with the passage of time. This occurs more rapidly if a measure of employment stability returns to an organization.

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## ■ RELATED DIMENSIONS OF TERMINATION

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### **Unemployment Compensation**

An employee who is discharged for cause is technically not eligible for unemployment compensation. One who is dismissed for reasons related to performance or laid off for lack of work or economic reasons is considered eligible for unemployment. However, regardless of the reasons behind any particular termination, any discharged employee is free to apply for unemployment. It costs only the time to complete an application. Many claims are given favorable determinations even though an organization considered them ineligible.

Consider an example. An organization following its own procedures for progressive discipline provides counseling sessions and warnings before discharging an individual for chronic tardiness. As long as policy is followed and applied in a consistent manner, an organization has every right to release such an employee for not meeting the expectation of being on the job when needed. This individual is technically not eligible for unemployment. This person applies for unemployment compensation and pleads hardship due to an inability to get to work on time. The stated reason may involve a supposedly regular ride that has been erratic, a constantly changing bus schedule, child care arrangements that are in a state of flux, or some other issue why the starting-time expectation has not been met. If the unemployment office determines that the discharged employee is eligible for benefits, the former employer will be notified. If the employer protests the determination and the employee chooses not to accept the employer's decision, then a hearing is held. An administrative law judge renders a decision. Discharged employees claiming hardship are frequently granted unemployment compensation benefits.

Human resources, acting on the organization's behalf, initially responds to every claim for unemployment compensation, making an initial determination as to which claims to contest and which to concede. Some HR departments have taken the authoritarian stance of automatically contesting every unemployment claim. This practice accomplishes little more than consuming time and energy while generating ill will. The HR assessment of each unemployment claim should involve an honest judgment of

the merits and validity of the claim. Only those claims that appear invalid or questionable should be contested.

When a contested claim results in a hearing before an administrative law judge, the department manager and an HR representative usually attend the session. The former employee typically attends. The information that they provide will be used to make the determination. An unemployment hearing can consume several hours when travel and waiting time are included. A conscientious HR manager will be mindful of the impact on managers and will contest only those claims that honestly appear to be unwarranted.

### **Employee Privacy**

Any termination, regardless of the reasons behind it, should be accomplished in private and in a place where the conversation is not visible or audible to other employees. Terminations should be accomplished near the end of the workday so that an individual who has just been let go can leave the premises without being forced to give an explanation or answer employee questions about what has happened.

Terminated employees should be allowed as much dignity as possible. Managers must weigh considerations of trust and caution. Many organizations have policies that require dismissed employees to be accompanied when they return to their workstations or offices. This precaution is taken to ensure that computer files or other property is not damaged. Human resources commonly has the responsibility to recover keys, employee identification cards and other organizational property. Security generally has the responsibility to delete any electronic access codes given to former employees.

Discharged employees should be escorted out of the building. However, not all experts agree on this suggestion. Angry former employees may commit acts of vandalism or sabotage. In contrast, employees who were terminated and then escorted out have sued because of the humiliation experienced in the manner of departure. Juries are frequently sympathetic to allegations that defamation can result from actions as well as from words. Terminations occasionally require the presence of security personnel. A security officer's presence should be discrete, not especially visible but readily available.

### **Outplacement**

When significant numbers of employees are being released during the same reduction, organizations often provide access to some form of outplacement service. Individual outplacement services are often extended as part of the severance arrangement made with a manager or professional employee. These are individualized services intended to assist the person in preparing a resume, initiating a job search and securing future employment. Group

outplacement activities are often provided for rank-and-file employees. Direct contact with organizations that are known to be recruiting may be arranged. Any assistance toward new employment that can be provided will lessen the feelings of betrayal or abandonment that employees experience when they are laid off.

### **Human Resources Follow-Up**

For all terminations, HR representatives should discuss issues related to benefits with departing employees. An important topic is continuation of insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Options should be discussed and employees should be shown how to apply for coverage. Other options should be explained. Unemployment compensation benefits, if applicable, should be discussed. Human resources should secure a signed release to give out reference information. Human resources will ordinarily explain how remaining vacation or sick time and applicable severance will be paid and whom the departing employee should contact with questions.

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## **■ THE SURVIVORS OF REDUCTION**

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Before, during, and immediately after a reduction in force, people who have been laid off receive a great deal of attention. Those who have been terminated receive so much attention that individuals who remain often feel forgotten. However, employees that remain must not only keep the organization running but also pick up the slack created by the loss of those who were discharged. They often think of themselves as survivors rather than as regular employees.

Survivors commonly feel overworked, if not overwhelmed. This is most acute in the days immediately following the reduction when the shortfall created by the absence of some staff is most pronounced. Survivors experience guilt over having avoided the reduction while so many others lost their employment. They distrust management for terminating so many of their coworkers and wonder about the security of their own employment, fearing that they will be next to depart. Survivors experience an overall decrease in morale, productivity and employee loyalty. They feel less compelled to be at work on time or at all. This contributes to a general increase in absenteeism and tardiness. In some extreme instances, they may carry out acts of sabotage, violence or other disruptive behavior against their former employer or employees.

Inevitably, some survivors of a reduction react by looking for new employment. In this way, critically needed staff may be lost due to the insecurity of the environment. Skilled technical and professional employees often feel more loyalty to their occupations than to an organization.



Organizational loyalty has eroded with the reduction in force and employees are ripe for offers of more secure employment. A job market favorable to highly skilled professionals can cause an organization to lose staff members that they worked so hard to recruit or protect.

The attitude among the survivors of a reduction can be particularly grim if their organization had implemented a total quality management or other motivational program during recent years. These programs, launched and pursued with much promotional activity and a strong emphasis on the value of employee participation, delivered a single message. All employees are told that they are important, that their contributions are essential for the organization's continued success and that they are needed. When layoffs follow, the message is changed. The organization says that employees have become less important. When a significant reduction in force follows a motivational program, the cumulative effect is more demoralizing than if employees had never heard about the original program.

Following a significant layoff, top management must be openly supportive of those who remain and must be visibly active in efforts to help all survivors adjust to changes and return to normal operations. Reassurance about continuing employment without additional layoffs is helpful. However, it is only useful if true. A second round of layoffs made after a message of employment assurance is often catastrophic to the morale of remaining employees. Decreased morale is often followed by decreases in productivity. This cycle is vicious and highly detrimental to an organization.

Human resources and management at all levels can provide valuable support to the survivors of a reduction in force by stressing training and education as people attempt to adjust to new or altered roles. Specifically, this is an appropriate time to provide training in time management, coping with change or managing stress. Any action that promotes a sense of business as usual or allays fear among workers has value. The overarching goal is to allay fear and change the focus of employees from survival and security to service and productivity.

During the recovery period following a reduction in force, supervisors must maintain close communications with their employees. Employees will have questions. Many of them cannot be answered. Employees will be stressed out, worried and demoralized. As employees, supervisors are subject to the same negative influences as their subordinates. However, as managers, they must keep their employees upbeat and willing to produce in spite of what is occurring around them. This often requires great effort in the face of potential discouragement. It also requires support from organizational executives. The outlook, morale and productivity of an entire group of people often hinges on the attitude of a single person, a departmental supervisor.

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## ■ CONCLUSION

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Involuntary terminations include layoffs and firing. The former are usually triggered by economic considerations while the latter are due to problems meeting organizational expectations or conforming to policies. Allowing a person to resign instead of being fired has great potential for creating future organizational problems. Persons who are involuntarily terminated may be eligible for unemployment compensation benefits. Human resources provides essential services whenever an employee leaves an organization. Survivors of any reduction in force have special needs. Ignoring these has the potential to cause great losses in employee morale and productivity.

The case of Joan von Willebrand demonstrates the importance of following policies and procedures faithfully and consistently applying all rules during an involuntary termination.

Joan should be discharged. However, unnecessary information will have to be collected and reviewed. Extra time and unnecessary aggravation will result from George's off-and-on, lax application of the tardiness policy. At present, enough information is available to document the fact that Joan was given an opportunity to correct her offending behavior but did not do so. All of the provisions in the organization's progressive disciplinary policy must be followed. George should be reprimanded for inconsistent application of his supervisory responsibilities. Repeating, in all involuntary terminations, it is essential that an organization has clear, comprehensive policies and procedures and that these are applied consistently and in a strict, non-discriminatory fashion.

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## Discussion Points

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1. What are the differences between dismissal and discharge?
2. In your opinion, should a general layoff be implemented at one time or over a period of weeks or months? Why?
3. What steps would you recommend that a department supervisor take before laying off employees? Why?
4. What are the principal advantages and disadvantages to an organization in implementing a voluntary early retirement program?
5. What is a constructive discharge? Provide an example of a constructive discharge.

6. Why should some form of seniority be used as a criterion in identifying employees for layoff?
7. Why is it necessary to pay particular attention to the employees that are retained following a reduction-in-force? What is the basis for concern, recognizing that these survivors still have their jobs?
8. When should employees who are laid off be expected to leave? Why? What are the advantages and disadvantages of leaving at the time that they are notified? What are the advantages and disadvantages of being allowed to work out a reasonable period of notice?
9. Why do mergers and other affiliations often lead to the consolidation of positions and reduction of the work force?
10. Should a manager be able to use a reduction-in-force to rid the department of its less effective employees? Why or why not?
11. Once all employees have been designated for layoff, what should HR do before the layoff is implemented? Why?
12. What steps can an employer take to minimize the possibility of terminations being overturned by legal action? Why?
13. Assuming that a significant number of skilled employees are designated for layoff, how can an organization assist these workers following dismissal? Can an organization protect selected skilled workers in a layoff? Why or why not?
14. Why is it advisable that human resources provide individual meetings with each employee that is terminated in a workforce reduction?
15. Should an employee who is about to be discharged for cause be allowed to resign? Why or why not?

## Resources

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