

Blog Post

Handle With Care: Dealing With the Aftermath of Layoffs

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Mass layoffs have been the topic of discussion in the technology industry over the last several months, with tens of thousands of employees laid off so far in 2023 alone. In many cases, the layoffs are tied to concerns related to the current economic environment, as companies exercise caution in reducing expenses in anticipation of a global recession.

With layoffs of this magnitude taking place across various different companies, the potential for job loss will be at the forefront of employees' minds. It is important for employers across all industries to be careful in responding to employees' concerns of layoffs occurring, communicating layoff decisions to departing employees, and maintaining good morale among those who remain with the company. The most obvious group affected by layoffs is the departing employees. Employers should consider how they can best soften the blow that departing employees will surely feel upon receiving notice of their termination. While offering severance is one way to show appreciation for departing employees' service to the company, it may not be possible for companies to offer severance in every situation (especially if layoffs are occurring due to financial concerns, and depending on the size of the company). Consider other benefits you could offer departing employees, either in place of or in addition

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to severance, such as job placement services or retraining programs, positive letters of recommendation, or even allowing employees to retain some of the benefits provided during their employment. For example, if the employee used a company car during their employment, consider allowing them to continue using the car at no cost to the employee for a certain number of months or years, with the option to purchase the vehicle at a lower cost at the end of the agreed upon term. Employers can also consider reimbursing employees for COBRA expenses to continue their health insurance coverage for a number of months after termination, so employees do not have to worry about the costs of coverage while searching for a new job. If employees receive housing stipends or even housing provided by the company, consider allowing them to continue receiving those benefits for a number of months after termination or until the employee becomes reemployed, so they do not lose their job and housing all at once. The potential benefits you can offer to departing employees, in addition to or in lieu of severance, can greatly impact their morale and their feelings toward the company as they depart.

In addition to the departing employees, employers must also consider the employees who are staying with the company, and how to handle their potential uncertainty about their future with the company and the additional responsibilities they may take on due to the number of employees departing the company. Take into account the ways in which the company can keep up morale amongst remaining employees who may shoulder the burden of an increased workload due to a reduction in force, whether through organizing social events for employees, providing in-office perks such as regular breakfasts or lunches, or offering wellness activities such as lunchtime yoga or meditation classes. Employers should also consider implementing periodic one-on-one meetings between supervisors and the employees on their teams to stay connected as a team and ensure employees are managing their

work loads, taking time off as needed, and have the opportunity to resolve any issues they may be experiencing in performing their job or managing their responsibilities.

Employers must also consider the managers and supervisors who are carrying out termination meetings with departing employees and dealing with remaining employees once layoffs are completed. Ensure that managers and supervisors are trained on what and how to communicate with employees during termination meetings, including any severance or other benefits being offered to departing employees. Managers and supervisors must be prepared in advance of these meetings so they do not inadvertently promise an employee a benefit that the company cannot actually offer the employee, or unknowingly expose the company to a claim by the employee related to the termination.

As mass layoffs may be on the horizon for many companies, employers should carefully plan out any terminations to ensure that departing employees leave on positive terms to the extent possible, and remaining employees keep up their morale and manage their workloads effectively. Additionally, as employers plan mass layoffs, they must also analyze whether the company must comply with the federal Worker Adjustment and Retraining Notification (“WARN”) Act and any similar state law, which helps ensure advance notice to workers in cases of mass layoffs or plant closings. The WARN Act requires employers to provide 60 days’ written notice to employees when there is a qualified plant closing or mass layoff taking place. A WARN notice is required when a business with 100 or more full-time workers (not counting workers who have less than six months on the job and workers who work fewer than 20 hours per week) is laying off at least 50 people at a single worksite, or employs 100 or more workers who work at least a combined 4,000 hours per week, and is a private for-profit business, private non-profit organization, or quasi-public entity separately organized from regular government.

Employers must ensure that they comply with the notice requirements for mass layoffs under the WARN Act to avoid any penalties associated with non-compliance.

If you need assistance implementing a reduction in force or advice related to mass layoffs, please contact your Akerman attorney.

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