

## Layoff and RIF Issues

### Reduction in Force (RIF) Issues

Workforce reductions are never easy, but there are a number of actions that can be taken to minimize the considerable legal risks and to undertake them as efficiently as possible. The law in this area is complicated. Contact your attorney for details and for guidance regarding specific factual situations. A few issues to consider are summarized below.

#### Minimize the Legal Risks of Discrimination and Wrongful Termination

- Prepare cautiously and thoroughly for RIFs.
- Implement RIFs with extreme care. (Consider getting your attorney involved.)
- Consider creating a RIF committee that would oversee the process.
- Ensure that the reasons provided to employees for the RIFs and for determining the affected employees are consistent and honest.
- Follow established RIF criteria.
- Review employee performance appraisals, promotions, etc. and ensure that they are consistent and supportive of the RIF.
- Be careful in all communications, both in documentation and statements to employees (e.g., referring to the ages of employees; commenting that someone is “over the hill” or “just too old to learn new technology” or that management “prefers a more youthful look in its employees”).
- Do a statistical analysis of your workforce (i.e., as to sex, race, age, etc.) both before and after the proposed reduction. The focus should be on the particular workforce pool affected. If all layoffs are within a department then that unit, rather than the whole company, is the appropriate group to analyze.
- Be extra cautious about age discrimination issues. Age discrimination claims are increasing rapidly.
- Train your managers in what to say and how to respond. They need to understand the process and the legal implications.
- Make sure you are in compliance with or can ignore the WARN Act. Remember that some states have their own “Warn Acts.”
- Remember that you may be required to justify your decisions later, maybe in court.
- Closely align RIF decisions with business needs and justifications.
- Ensure that process and procedures followed are consistent, logical, and support your business justifications.

- Consider and document alternatives to RIFs that you have undertaken. An organization that has implemented alternatives to workforce reductions is more positively perceived.
- Consider voluntary separation programs (e.g., severance programs, early retirement).
- Carefully determine what, how, and when communication to employees will take place. Senior management should direct all communication.
- Determine how EEO and other legal issues will be reviewed.
- Plan for post RIF issues (e.g., outplacement, references, recall rights, severance).

***Interested in reprinting the above information?***

*As a service to the human resource community, we are pleased to allow our white papers to be reprinted. However, when reprinting this article, you must maintain the accuracy and intent of the content, and you must include a final credit paragraph which includes our name, HRN Management Group, and a link to our site at [www.hrnonline.com](http://www.hrnonline.com). Need text version? Let us know.*

**performance<sub>pro</sub>**

**Looking for an easy-to-use  
employee development tool?**

Try Performance Pro.  
The goal-setting function can  
encourage education and  
employee skill development.