



How To Manage HR Issues During Economically Difficult Times

Presented by
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Program Outline

- The thinking process needed to successfully deal with staff restructuring
- Legal considerations in conducting a layoff
- Policy considerations
- Select who will be laid off
- Documenting decision-making to defend litigation
- Communicating layoffs the right way, at the right time
- Letting the “survivors” know where they stand

Cost of Turnover



- Organizations laid off 5% of workforce experience 13% turnover -- 2.6 % higher than average annual turnover of organizations didn't cut staff
- The more people laid off, the higher the turnover sustained subsequently
- The Saratoga Institute estimates cost of unwanted turnover to be 1 and a half times employee's annual compensation



Layoff Survivor Sickness

- 87% are less likely to recommend their organizations as a good place to work.
- 81% say customer service has declined.
- 77% see more errors and mistakes being made.
- 64% say their colleagues' productivity has declined.
- 61% think their organizations' economic prospects have worsened.

Layoff Alternatives



- Freeze hiring
- Cut your salary
- Eliminate raises
- Trade days off for compensation
- Offer early retirement
- Rotate jobs
- Job sharing
- Voluntary unpaid leaves
- 4 days workweeks
- Brainstorm cost cutting ideas



Legal Considerations

- Federal and state WARN Acts
- Discrimination
 - Race, Color, Religion, National Origin, Disability, Age, Gender, Sex, Pregnancy, Veteran Status, Genetic Information
 - Disparate treatment, adverse impact
- ERISA violations
- Wage and Hour (*earned wages*)
- COBRA

Policy Considerations



- Amount of Notice

- 49% No notice
- 17% Two weeks
- 15% One month
- 13% Two months

- Benefits Provided

- 75% Severance
- 44% Extended Health Benefits
- 40% References
- 38% Outplacement
- 28% Career counseling
- 19% Job search training
- 8% Use of office space

Why Seniority Doesn't Work

- Seniority = Stellar Job Performance, **NOT!**
- New hires up-to-date; performance bar raised
- Performance management systems under perform
 - Everyone is a “3”
 - Candid feedback not delivered or heard
- Disciplinary processes avoided

The Eight Steps



1. Articulate why changes will be made
2. Create a multi-person team; create a new organization chart
3. Develop criteria for retention and layoff
4. Address “bumping”
5. Apply criteria to people
6. Review decisions for new organization composition
7. Communicate to employees laid off
8. Communicate to employees retained

Step One: Articulate Why Changes Needed

- It's not just: *We're cutting costs, stupid*
- Develop the business case
- Wrong problem – wrong solution
- Timing matters vis a vis protected activity

Step Two: A Multi-Person Team; A New Organization Chart

- Diverse, strategic thinkers
- Focus on the future; this isn't about people (yet)
- Link the chart to the business purpose
- Looks at the SKAs needed
- Change job descriptions
- Develop communication strategy
- Develop transition package

Step Three: Criteria For Retention And Layoff

- Develop criteria, measures
- Weight key factors
- Seniority -- lower risk; marginal performers may be retained
- Job Performance – more subjective; substantial business value
- Risk management trade off
- Benefits outweighs risk of litigation

Step Four: “Bumping”



- Seniority does play a role
- Define tenure and performance levels
 - Only employees with 10 or more years of service who have a performance level assessed at exceeds expectations may displace an employee with less than one year of service who only meets expectations
- ... Or whatever makes sense...

Step Five: Apply Criteria to People

- Even if there are good appraisals ...
- Comparisons of employees to each other
- Evaluations of employees to new jobs
- Apply performance criteria consistently
- Behavioral information used
 - Example of a past event
 - Actions described, statements quoted
- Don't simply note the absence of criteria!

Behavioral Examples



- *Good analytical ability: “In a recent situation when this employee was required to evaluate two competing systems, he discerned a critical difference which resulted in a significant savings ... etc.”*
- *Inadequate analytical ability: When asked to review a proposed change to the operating procedure, this employee said, “Why waste the time? It will probably work.”*

Step Six: Review New Organization Composition

- Are the right people staying?
- Is there adverse impact?

Step Seven: Communicate to Employees Laid Off

- **When:** earlier, around lunch
- Consider timing
 - Holiday
 - Weekend
 - Vacation
 - Birthday, anniversary
 - Religious holiday
- Uninterrupted time; plan for questions
- Include another manager or HR?

Communicate to Employees Laid Off

- Where:

- Conference room
- Employee's office
- Last choice – manager's office – becomes the center of the evil empire

Communicate to Employees Laid Off

- What to say:
- Someone else asks employee to meet with you
- Use a script
- Be clear that decision is final – no alternatives
- No small talk



The Script

Jodie-Beth, as we've announced, the organization will be eliminating a number of positions in an effort to reduce costs. Your position has been selected, and we don't have another job to offer you. So, today is your last day of work with us. We have information to share with you about severance, outplacement, health insurance continuation, and unemployment. I know that this is difficult news, and a lot of information is coming at you all at once. Before I continue, I want to check how you're doing — are you okay?



The Script

We've eliminated a number of positions and we're letting people know individually. Out of respect for your co-workers who have not been told their status, I'm asking you not to speak about this yet with others.

I know that some people would prefer to leave quietly; others want to say goodbye to friends. We also need to make arrangements for you to pack your things or we can have them sent to you. How would you like to proceed?



Be Prepared For Questions

- Why was my position selected for elimination?
- Why me?
- Who else is being laid off?
- Are there any other options – transfer, pay cut, part time?
- Who is going to do my job after I'm gone?
- Can I meet with your manager or HR?
- I have more seniority!?!?

Close the Meeting



- Thank the employee
- Avoid platitudes
- Give an appointment slip – name of person, phone number, location, time
- Next steps: final paycheck, severance, outplacement, health insurance continuation, unemployment
- Violence or sabotage: contact security/police, deny access, confiscate equipment

Step Eight: Communicate to Employees Retained



- Use a script:

I wanted to let you know about the layoffs which occurred earlier today. Two employees from our department and others in the organization were laid off. The organization has provided people with support (it may be appropriate to say severance and outplace or whatever support has been provided) and will be working with them to ease the transition.

Step Eight: Communicate to Employees Retained



I wish I could provide an absolute assurance of job security, but there is never that kind of guarantee. As far as I understand, however, there aren't other layoffs planned at this time. I understand that people are worried about their job security right now, so I want to allay any fears I can. What questions can I answer?



Last Steps

- Promise only what is real
- Invite questions – now or later
- Emphasize discretion – minimize gossip
- Remind about reference policy
- Reassign the work
- Be visible – stay in the loop



Don't Document Ignorance

- It's not document, document, document.
It's think, think, think, then document
- A revision of the normal order of things
- Take care in discussing protected factors or activities
- Note takers need training
- Invoke the attorney-client privilege when possible



Thank you!

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