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Handle Layoffs with Care to Avoid Lawsuits

With the U.S. economy in recession, companies are trying to make up for declining sales by reducing expenses. Workforce reductions, though they might improve short-run profits, could also cause long-term problems if the firm does not handle them with care. Angry former employees could look for justification for legal action.

The employees who remain will take on extra work with no additional compensation, while they deal emotionally with the loss of colleagues and fear that the job cutting will eventually hit them. Consequently, companies must approach layoffs with caution.

The company must first determine whether a layoff is the best option. Although it might reduce costs quickly, it could also cause the company to dismiss valuable workers. This will hurt long-term productivity, lower the morale of the survivors, and wipe out valuable institutional knowledge. There is also a risk that a layoff will affect older or minority workers unfairly, which could lead to discrimination complaints. Therefore, the company should look at alternatives such as hiring and wage freezes, adjustments to employee benefits, not replacing workers who leave or retire, and job sharing.

If the company decides that it must reduce its workforce, several careful steps are required:

- Establish a specific goal for the layoff to achieve, such as a dollar amount of savings or number of positions.
- Identify those job functions and skills that it will need to operate successfully after the layoff.
- Set a timetable so that the reduction has a clear end.
- Comply with federal and state labor laws.
- Determine which jobs are unnecessary and eliminate them.

When determining which employees to dismiss, the company may legally use criteria such as length of service with the company, the necessity of a certain job classification, employee status (i.e., part-time or temporary), or employees’ performance records. Management should review candidates for dismissal to ensure that the cutback does not disproportionately impact classes of employees protected by law. If managers can find no other compelling business reason for terminating those employees, they must seek out alternatives.

Once managers have made selections and the decision to proceed, they must inform the affected workers in a professional manner. They should be able to explain clearly the reasons for the action; workers’ entitlement to benefits such as severance, health coverage, and others; and postemployment services available to the workers, such as outplacement. The workers might express emotions ranging from stunned silence to rage; the managers must be prepared to deal with their reactions in a businesslike manner. Remaining employees will have concerns about their own futures and the firm’s outlook. Management should, to the extent possible, explain the reasons for the layoff, the likelihood of additional job cuts, and the business goals the firm seeks to achieve through the layoffs.

The company must take particular care when the layoff involves older employees. Severance packages usually require the employee to waive his right to press a claim under federal law. However, regulations impose procedural requirements that an employer must meet before a court will consider the waivers valid. Companies must take special care to meet those requirements.

Shrinking a company is an unpleasant prospect that no manager relishes. Employee lawsuits might well result from a workforce reduction. However, if the firm handles the action with care and sensitivity, it can make such claims less likely and will be in a better position to defend itself against claims that do arise.

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