

After the Layoff: Rebuilding Trust and Avoiding Legal Landmines

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A reduction in force is one of the hardest decisions any organization makes. Even when the business case is clear, the human impact is not. Jobs are lost. Teams are disrupted. And the employees who remain are left trying to process a complicated mix of relief, anxiety, and uncertainty.

For employers, the work does not end when the layoff notices go out, or the separation agreements are signed. In many ways, the real challenge begins the next morning when the remaining workforce logs in and asks the same quiet question: what happens now?

From a labor and employment perspective, the post-layoff period is where culture, communication, and legal risk collide. Organizations that handle this moment thoughtfully can rebuild trust and stabilize their teams. Those that do not may find themselves facing declining morale, increased turnover, and avoidable legal exposure.

The employees who remain are often referred to as “survivors,” and that description is not far off. Survivor’s guilt is common. Employees may feel uneasy about colleagues who lost their jobs while they remained. At the same time, many are wondering if they will be next.

The instinct for some leaders is to move on quickly and return to business as usual. That approach rarely works. Silence invites speculation, and speculation almost always fills the gap with worst-case assumptions.

The first step toward rebuilding trust is clarity. Employees do not expect leadership to promise that layoffs will never happen again. They do expect honesty about why the reduction occurred and what the path forward looks like. When leaders explain the business realities behind difficult decisions, employees are more likely to view the process as legitimate, even if they wish it had not happened.

Transparency also means explaining how decisions were made. Without sharing confidential information, employers should communicate the factors used to evaluate roles and determine which positions were eliminated. When employees understand the reasoning, they are less likely to assume the process was arbitrary or unfair.

Managers play a critical role in this moment. Frontline supervisors are usually the first people employees turn to with questions and concerns, yet they are often the least prepared for those conversations. Employers should provide managers guidance on how to address the layoff, answer common questions, and recognize signs of burnout or disengagement on their teams.

At the same time, organizations need to take a realistic look at workload. One of the most common mistakes after a reduction in force is assuming the remaining employees can simply absorb the work of those who left. In the short term, teams often

step up heroically. Over time, however, sustained overload leads to frustration, mistakes, and eventually departures. Rebuilding trust means acknowledging this reality and adjusting priorities where necessary.

Recognition matters as well. Employees want to know their contributions are seen and valued, especially during periods of uncertainty. Celebrating small wins, inviting employee input, and acknowledging extra effort can go a long way toward restoring a sense of stability.

But rebuilding morale is only part of the equation. The period following a reduction in force also comes with a number of legal landmines that employers should not ignore.

One of the biggest risks is inconsistent messaging. If leaders offer different explanations about why the layoff occurred or how decisions were made, employees may begin to question whether the stated business reasons were genuine. Confusion and mixed signals can quickly fuel discrimination or retaliation claims. Employers should make sure leadership, HR, and managers are aligned on what will be communicated and how.

Another key issue is whether the layoff had a disproportionate impact on certain employee groups. Even when a reduction is driven by legitimate business needs, the selection criteria can sometimes result in unintended disparities affecting protected groups. Conducting an adverse impact analysis before implementing a reduction is a critical step that many employers overlook.

Age-related issues deserve particular attention. When employees aged 40 and older are asked to sign releases in exchange for severance, employers must comply with the Older Workers Benefit Protection Act. That means using clear language and providing the appropriate review and revocation periods. In group termination situations, employers must also provide specific disclosures regarding job titles and ages of individuals selected and not selected for the program. These requirements are technical, and cutting corners can undermine the enforceability of the agreement.

Retaliation is another common flashpoint. Employees who previously raised concerns about discrimination, harassment, pay practices, or workplace safety may claim they were selected for the layoff because they spoke up. That does not mean they cannot be included in a legitimate reduction in force, but it does mean the employer should have well-documented, objective business reasons for the decision.

Employers should also be mindful of wage-and-hour issues that may arise after layoffs. When teams shrink, but expectations stay the same, remaining employees may start working off the clock, skipping breaks, or accumulating overtime that managers quietly hope will go unreported. That dynamic can quickly lead to wage claims. Reviewing timekeeping practices and reminding managers of their responsibilities can prevent small issues from becoming larger ones.

Severance agreements themselves can also create problems if they are drafted too aggressively. Overly broad confidentiality or nondisparagement provisions may run afoul of employee rights to discuss workplace conditions or participate in protected activity. The goal should be a thoughtful, compliant agreement, not language that attempts to silence employees entirely.

Another surprisingly common mistake occurs when leaders try to reassure employees by making promises they cannot guarantee. Statements like “this was a one-time event” or “there will be no more layoffs” may calm nerves in the moment, but they can create credibility problems if circumstances change. Honest, measured communication is always safer than absolute assurances.

Finally, employers should remember that documentation matters. Casual comments in emails or internal messages can look very different when reviewed months later by a government agency or a court. Descriptions of employees lacking “energy,” not fitting the “new culture,” or being “close to retirement” may seem harmless in conversation, but can quickly become problematic in litigation.

The bottom line is that a reduction in force is not just an operational decision, it is a defining moment for an organization’s culture and leadership.

Employers that communicate clearly, train managers thoughtfully, and review decisions through both a business and compliance lens are far better positioned to move forward. Just as important, they signal to the employees who remain that they are valued partners in the company's future.

And in the aftermath of a layoff, that message matters more than ever.