

Separation Decision Considerations:

Seniority Layoff: Most corporate attorneys will advise laying off employees on a last-hired, first-fired basis across all departments. The method for downsizing that is most clearly defensible in a court of law, for example, is to lay off 10 percent of employees across all departments on a seniority-only basis. This way no employee can claim that he or she was dismissed for discriminatory reasons.

This approach may succeed from a legal perspective, but not necessarily from the larger and more important concern of organizational health. First, laying off employees by a flat percentage across different departments is irrational. How can it be that accounting can cope with the same proportion of fewer employees as human resources? Could it be that one department can be externalized and the other left intact? The decision of how many employees to lay off from each department should be based on an analysis of business needs, not an arbitrary statistic.

The concept of laying off employees strictly on the basis of seniority is also irrational. The choice of employees for a layoff should be based on a redistribution of the work, not the date the individual employee was hired. Sometimes an employee of 18 months has a skill far more valuable than one with 18 years' seniority.

Functional Layoff: This is the most common type of layoff being used today. A company would take a look at the specific job functions that are to be eliminated and downsize people in those positions. For example if a product line is being discontinued the organization would layoff the workers directly impacted by the discontinued line. If part of the line is being relocated a decision based on skill will be used to determine who will be released and who will be retained. Many companies will set up a reorganization meeting where the management of the organization will sit down and discuss what part(s) of the business will be effected and which positions will no longer be needed. This is typically done without discussing specific employees by name but instead focus on the position that they hold. This rational gives the company a defensible position for the reduction in force and if combined with a severance package and open lines of communication, the result is generally positive.

Voluntary Layoff: A suggestion sometimes used is to implement a volunteer program. This is where a company would provide an incentive package to anyone in the organization who is willing to leave voluntary before a layoff would occur. The advantages are that the employee is choosing to make the transition results in a favorable morale situation with the company and greatly limits any legal liability since the employee is choosing to leave. Many times the amount of volunteers will meet the requirements of the company's need for downsizing.

The disadvantages must also be considered. If the organization is viewed as unstable you may receive more volunteers than expected or you may lose some key performers needed to make the company successful in the future.



Early Retirement: Is a form of a voluntary layoff where a special retirement package is offered to those workers who meet criteria of a certain age and number of years worked with the company. This allows an organization to do a voluntary layoff of its older workers who may be ready for retirement and who might be the most expensive because of their years of experience. The downside is the knowledge lost by these workers can be significant and many companies see an older workforce these days as more dedicated than a younger workforce.

Amount of Notice: There are varying opinions on the amount of notice an employee should be given. First the organization should be aware if they need to file a WARN notice. A WARN notice is issued when a company layoffs a certain number of employees in a given time period. There are two types of WARN notices a company must address, a Federal notice and a State notice. Many states have different rules when it comes to the time a notification must be made and the numbers of employees effected that will trigger this notice to be needed. We recommend you visit your state's department of labor/employment website to obtain this information. If your organization does not need to file a WARN notice you are not bound by law to give a certain amount of notice to you employees regarding a layoff unless you have something in your company handbook or have established a pattern from past layoffs.

Out of fear and guilt many executives choose to give employees as little forewarning as possible about an upcoming layoff or downsizing. Managers fear that if employees know their fate ahead of time, they might become demoralized and unproductive -- they may even sabotage the business. However, there is no documented evidence that advance notice of a layoff increases the incidence of employee sabotage.

The lack of advance notice about downsizing, however, does dramatically increase mistrust of management among surviving workers. Trust is based on mutual respect. When employees discover what has been brewing without their knowledge or input (and they will when the first person is let go), they see a blatant disrespect for their integrity, destroying trust.

By not giving employees information that could be enormously helpful to them in planning their own lives, management initiates a cycle of mistrust and helplessness that can be very destructive and require years to correct. Because of this most organizations will give two weeks for small layoffs and 30-60 days notice for larger layoffs.