# Layoff and Recall Policy

## When to Use

Implementing a layoff and recall policy communicates to employees an employer's expectations regarding layoff and recall procedures.

The policy should be communicated to employees at the beginning of employment and on an ongoing basis. Employers should refer to the policy whenever a reduction in force (RIF) is contemplated.

## Layoff and Recall Policy

**[Enter Employer's Name]** achieves its mission and business objectives through the commitment and talent of its people. However, as a result of market conditions and other circumstances, it may become necessary to eliminate, realign, reorganize or reduce staff.

This policy establishes the procedures for downsizing. If possible, contingent workers and temporary employees will be reduced before invoking any downsizing procedures. **[OPTIONAL:** This policy and associated procedures do not apply to temporary employees, student interns or seasonal employees.**]**

### Layoffs

#### Layoff Defined

A layoff is a separation from employment for reasons other than performance or misconduct. Reasons may include:

* Budget shortfalls;
* Discontinuance, modification or redirection of a division, program or project;
* Reorganization;
* Lack of work; or
* Closure or relocation of a work location.

#### Selection Procedures

**[Enter Employer's Name]** will consider the following in selecting positions for layoff, in no particular order:

* Needs of the organization in meeting business goals and objectives;
* Competencies that advance business goals and objectives;
* Skills and abilities, and possibility of transferring those to other positions, as needed; and
* Length of service with the organization.

Employees may voluntarily register for the initial layoff roster.

#### Procedures for Layoff

**[Enter Employer's Name]** will communicate information on downsizing decisions as soon as practicable and in compliance with all applicable federal, state and local compliance requirements.

Once positions have been identified for layoff, affected employees will receive written notification of the layoff. Included with the notification will be information regarding the company's benefit programs, retirement benefits plans and health care continuation **[and insert any other information the employer provides, e.g., outplacement services]**. An explanation of recall expectations will also be provided. An exit interview may be also scheduled.

#### Return of Company Property

Employees are expected to return all company property in their possession upon separation. Company property includes all property issued or made available to employees during the course of their employment including, but not limited to, software, keys, credit cards, mobile devices, files, records, computer access codes, computer equipment, instruction manuals, client presentation materials, business plans and any other company property in their possession.

#### Final pay

**[Enter Employer's Name]** will process an employee's final pay in compliance with federal, state and local laws, any applicable employment contracts or collective bargaining agreements and internal policies. Final pay includes pay for wages due **[OPTIONAL:** and all accrued, but unused, **[insert as applicable:** paid time off (PTO) or vacation pay and/or sick pay**]]**.

### Recalls from Layoff

#### Recall Defined

A recall is the reinstatement of a laid off employee to employment with the organization.

#### Selection Procedures

**[Enter Employer Name]** will consider the following in selecting positions for recall, in no particular order:

* Needs of the organization in meeting business goals and objectives;
* Competencies that advance business goals and objectives;
* Skills and abilities, and possibility of transferring those to other positions, as needed; and
* Length of service with organization.

#### Procedures for Recall

**[Enter Employer's Name]** will maintain employees on a recall list for a maximum of six months following the date of layoff. However, due to business needs, the layoff may become permanent at any time.

Notification of recall will be by **[OPTIONAL: insert method of delivery (e.g., regular, registered, certified)]** mail and employee response is required within **[insert number of days]** days of notification. An employee should respond to the offer of recall by following the procedures contained in the recall offer letter. If an employee no longer wants to appear on the recall list, then they should contact Human Resources **[or insert name/contact details for appropriate company representative or department]** to ensure the separation is documented as a voluntary resignation.

If an employee fails to respond to the recall notice by the required date, the recall offer will be withdrawn, and the employee will be terminated from employment.

#### Continuous Service

For any layoff lasting **[insert time period, for example: 30 days or less]**, an employee's length of service will continue to accumulate. For layoffs lasting longer than **[insert time period, for example: 30 days]**, recalled employees will return with credit for continuous service at the time of layoff.

## Tips

With respect to downsizing decisions, an employer should be as transparent as possible about its procedures, expectations and decision-making processes. Transparency, to the extent possible, builds trust among the workforce and consistency across teams.

***Selecting employees for layoff and recall.*** Use objective measures that further legitimate business objectives when selecting which employees to layoff and/or recall. The focus should be on positions and competencies, not individuals. Ensure that the individuals chosen for recall are being selected in a manner that is consistent with federal, state and local equal employment opportunity (EEO) laws. Consider performing a disparate impact analysis at appropriate times.

***Recall procedures.*** An employee is not automatically recalled by the employer for return to work. Instead, an employer sends an offer of recall, which the employee on layoff may accept or reject. An employee may seek alternative employment during the period of layoff, or simply may not wish to return to work for the employer. Any recall procedures (including recall offer letters) should be harmonized with existing policies and comply with all applicable legal and contractual requirements.

***Paid Time Off (PTO), Vacation and/or Sick Leave***. Depending on applicable state and local law and employer preference, employers may compensate employees who are laid off for accrued but unused PTO, vacation and/or sick leave.

***RIF benefits programs.*** An employer should select an approach to voluntary attrition programs, such as exit incentive programs or severance pay.

***Continuous Service***. An employer may wish to align continuous service policies regarding temporary layoffs with those on unpaid leave. For example, adjustments may be made to seniority or length of continuous service based on a certain amount of time on unpaid leave or layoff (e.g., any period lasting longer than 30 days).

***Supervisor Training***. Supervisors should be trained on layoff and recall procedures, and on their roles and responsibilities during these trying times of change. Supervisors should be warned not to make any layoff decisions that deviate from the employer's plan. Focus should be placed on supporting retained employees.

## Warnings

Lack of uniformity in layoff and recall practices can erode morale and lead to allegations of unfairness.

Avoid the appearance of discrimination, retaliation or unfairness when selecting employees for layoff and recall. For example, if only younger workers are recalled while older workers are not, then the selection may run afoul of EEO laws.

Be aware of all possible legal constraints on a proposed layoff, such as employment contracts and collective bargaining agreements. In addition, depending on the circumstances, an employer may need to comply with the federal Worker Adjustment and Retraining Notification Act (WARN) Act and its state and/or local counterparts.

Failure to follow applicable compliance requirements when crafting and implementing internal policies could result in civil fines and penalties, and prompt employee administrative and court claims.