



EMPLOYMENT UPDATE

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Are There Any Alternatives to Layoffs?

As the economic crisis worsens and companies search for ways to tighten their belts, many are wondering if layoffs are the only way to achieve much-needed cost cutting. The answer is no, and here are a few alternatives to consider before laying off your valuable employees.

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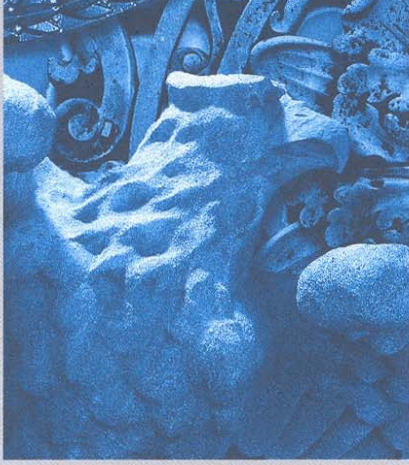
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- **Pay Cuts:** Across-the-board salary reductions for all at-will employees can create substantial cost savings. Beyond the obvious savings, salary reductions also avoid expenses associated with layoff severance packages. Salary reductions in lieu of layoffs also do not hinder performance goals or leave you understaffed when the economy recovers. While a reduced paycheck may hurt morale and temporarily slow productivity, in the long run it may beat outright termination. (But under no circumstances can an employee earn less than minimum wage.)
- **Mandatory Vacation:** Working creatively with vacation time can also create substantial savings. For starters, institute a “use it or lose it” policy for vacation days; require employees to take accrued vacation rather than paying those days out at the end of the fiscal year or allowing them to roll over into the following year. Next, consider requiring each employee to take at least one week of unpaid vacation a year.
- **Mandatory Leave:** Imposing a mandatory leave during periods of low productivity (for example the week between Christmas and New Year’s Day)—thus creating company-wide unpaid vacation time that can create drastic savings—is another viable alternative. (Be aware that in some circumstances, employees may be permitted to view an extended leave as a termination.)
- **Reduced Benefits:** Consider revising next year’s employee benefits by reducing the number of paid sick days allowed each employee, removing any paid personal days and/or increasing the employees’ share of the premium for medical and dental insurance.
- **Flexible Work Weeks:** Give your employees some options. Offer shorter work weeks with a proportional salary adjustment. You may be able to maintain the necessary level of productivity and cut costs while not mandating all employees to take a particular action. You can also mandate flex time. However, as with all of these measures, mandated flex time must be applied equally and across the board to all at-will employees.
- **Flex Leave:** Offer your employees the option of flex leave. Flex leave allows employees to take off for an extended period of time (*e.g.*, six months) at a percentage of their salary (*e.g.*, 15-20%) while keeping



company-provided health benefits. Employees can return to work full-time after their period of flex leave.

In implementing any of the above alternatives to layoffs, communication is key. Be open and honest with your employees in communicating commitment and dedication to them, and your efforts to avoid layoffs and terminations while maintaining the financial integrity of the company.

For additional information on this or other employment questions, please contact **Mara B. Levin** at mlevin@herrick.com or **Carol Goodman** at cgoodman@herrick.com in New York, or **Gary Young** at gyoung@herrick.com in New Jersey. The suggestions in this article may not be proper for all companies or all employees. We would be happy to advise you if you are considering any of the above suggestions.

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