



Reduction in Force (RIF) Best Practices

Section I: Identify Goals/Objectives

- 1.) Examine what locations and/or positions will be terminated.
- 2.) Identify timing for a RIF (0/30/60/90 days).
- 3.) Draft a narrative the company shares with the employees/team and the public.

Section II: The Downsizing Plan

- 1.) Establish a decision-making team, with stakeholders from each department affected.
- 2.) Determine which locations, divisions, departments and/or types of jobs will be affected.
- 3.) Evaluate if the organization wants to ask for volunteers (early retirement plan or voluntary severance package).
- 4.) Develop a RIF budget. (severance, unemployment, reduced productivity and potential lawsuits).
- 5.) Determine if the organization will institute a hiring freeze.
- 6.) Obtain legal counsel review of the downsizing plan.

Section III: Selection for RIF (Adverse Impact)

- 1.) Determine selection criteria (seniority, performance, job classification, job knowledge and skills, department, location, division) based on information developed in downsizing plan. *If union environment, review collective bargaining agreement for specific rights that may apply to union employees.*
- 1.) Train decision-making team on criteria(um) that will be used in the selection process.
- 2.) Develop a preliminary list of employees for the RIF.
- 3.) Make sure the decision-making team understands the importance of documenting all selection decisions.
- 4.) Review the preliminary list of selected employees to determine if an adverse impact exists for protected classes. *Protected classes include race, color, religion, sex (including pregnancy, gender identity and sexual orientation), national origin, age (40 or older), disability or genetic information, and veteran status. States may have additional protected classes, such as marital status or smokers.*

- 5.) Finalize list of employees identified for RIF.

Section IV: Review Federal and State Worker Adjustment and Retraining Notification (WARN) Act Regulations to Stay Compliant

- 1.) Review Federal WARN Act requirements and prepare notices as applicable.
- 2.) Review if there are state WARN requirements and prepare notices as applicable.

Section V: Determine Severance Packages and Employee Communication Process

- 1.) Determine whether release agreements will be required in exchange for severance benefits. If so, determine what it will take to comply with the Older Workers Benefit Protection Act (OWBPA).
- 2.) Decide what the severance package will contain (e.g., salary continuation; vacation pay; continued, employer-paid period of benefits coverage; employer-paid COBRA premiums; outplacement services; counseling and résumé workshops). Organizations should identify past severance practices and be consistent when making determinations.
- 3.) Gather materials necessary for RIF group meetings or one-on-one sessions (e.g., required notices, COBRA information, severance agreements).
- 4.) Conduct RIF one-on-one sessions with affected employees. Provide information related to final pay, health benefits, COBRA election process and 401(k) options, and review severance agreement. Encourage affected employees to ask questions about the severance package.
- 5.) Hold a meeting to inform the remaining workforce of the RIF.
- 6.) Communicate to keyholders to follow normal termination procedures (e.g., removal from computer systems).

Re-Hire Laid Off Employees Best Practices

Under the IRS shared responsibility rules, most employers use the 13-week rule to determine when a returning employee is a new hire or a continuing employee. (Educational institutions must still adhere to a 26-week rule).

Section I: Tax and Legal Forms

- 1.) New Rehire Report Form [Please see page 5 for additional instructions and page 7 for form]
- 2.) Job Refusal Statement Form [Please see page 5 for additional instructions]
- 3.) I-9 Documentation
 - a.: Don't Refile: Returning after less than 3 years, and form in personnel folder has not expired.
 - b.: Refile: Returning after less than 3 years, and form in personnel folder has expired.
 - c.: Refile: Returning after more than 3 years.
- 4.) W-4: Federal Tax Withholding Form [Please see page 5 for additional instructions]
 - a.: Don't Refile: Employee has come back in full-time capacity within 13-weeks of being laid off.
 - b.: Refile: Employees hired on or after January 1, 2020, will need to fill out the new 2020 W-4.
 - c.: Refile: Employee has come back after 13-weeks, is coming back in a new position or part-time
 - d.: Refile: Employee has come back and has changes in their life affecting withholdings.
- 5.) State Tax Withholding Form
 - a.: Don't Refile: Employee has come back in full-time capacity within 13-weeks of being laid off.
 - b.: Refile: Employee has come back after 13-weeks, is coming back in a new position or part-time
 - c.: Refile: Employee has come back and has changes in their life affecting withholdings.

Section II: Policy Acknowledgements

- 1.) Employee Handbook Acknowledgement Form
 - a.: No, if within 13-weeks of previous employment, and the handbook has not been updated.
 - b.: Yes, if form is not currently on file.
 - c.: Yes, if the handbook has been updated during employee absence.
- 2.) Employee Policy Memos or Acknowledgement Form
 - a.: Yes, if additional policies have been added or amended

- 3.) Key security processes, unfreezing email accounts and security badges.
- 4.) Benefit Information Reviewed (Please check with individual provider, the below is best practices).
 - a.: Reinstater previous employee plan, if within 30 calendar days and in the same plan year.
 - b.: Reinstater previous employee plan, if after 30 calendar days but before 13 consecutive weeks. Also, if the employee waived the plan, upon the previous employment, the employer is not mandated to re-offer the benefit plans.
 - c.: Re-Offer or Enroll if employee absence has been greater than 13 consecutive weeks.
- 5.) Verify Personal Information and Emergency Contact
- 6.) Refresh, Reactivate or Create HRIS & Payroll Procedures

Additional Instructions:

Section I: New Rehire Report Form

Employers are required to report the following employees:

New employees: Employers must report all employees who reside or work in the State of Kansas to whom the employer anticipates paying earnings. Employees should be reported even if they work only one day and are terminated (prior to the employer fulfilling the new hire reporting requirement).

Re-hires or re-called employees: Employers must report re-hires, or employees who return to work after being laid off, furloughed, separated, granted a leave without pay or terminated from employment within 20 days of re-hire. Termination of employment does not include temporary separations from employment, such as an unpaid medical leave, an unpaid leave of absence, a temporary lay-off of less than 60 days in length or an absence for disability or maternity. Employers must report within 20 days of a new employee's hire or re-hire date. Our furloughed and temporary layoff employees will need to fill this out when they come back.

Get the New Rehire Report Form on the next page.

Section I: Job Refusal Form

Employers are required to report the following employees:

Employers must report all employees that have been requested to return to work, that may have refused. The information on the form is required to determine the eligibility of unemployment benefits to those individuals.

Get the Job Refusal Form here: [https://www.dol.ks.gov/docs/default-source/employer-documents/k-ben-3118-\(12-18\).pdf?sfvrsn=b12d8f1f_0](https://www.dol.ks.gov/docs/default-source/employer-documents/k-ben-3118-(12-18).pdf?sfvrsn=b12d8f1f_0)

Section I: W-4: Federal Tax Withholding Form

The IRS updated the Form W-4 with significant revisions designed to make accurate income-tax withholding easier for employees in 2020. For your convenience, we have attached the new Form W-4. Additionally, to help employers navigate this change, we have compiled a list of the top five (5) changes employers should know about the new 2020 Form W-4:

1. Current employees do not need to submit a new Form W-4 to their employers due to the redesign.
2. All new employees hired as of January 1, 2020 must complete the new Form W-4.
3. Current employees who would like to adjust their withholdings must use the new Form W-4.

4. Employees may need more time to complete the new Form W-4 than they did to complete the previous versions. Employers should allow employees to take the new Form W-4 home rather than complete it on their first day. Employees can use the IRS Tax Withholding Estimator, a tool found on the IRS website, to help them complete the new Form W-4.
5. Since Employers are not required to have existing employees complete the new Form W-4, Employers will need to program their payroll system to accommodate the existing withholding calculation, as well as the new method.

Get the 2020 W-4 here: <https://www.irs.gov/pub/irs-pdf/fw4.pdf>

If you have any questions regarding the revised Form W-4, or any other HR needs, call HR Partners at 785-233-7860.

NEW HIRE REPORT

K-CNS 436 (9-15)

K.S.A. 75-5743 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 653A, requires all employers to report newly hired and re-hired employees to a state directory within 20 days of their hire date.

This form can be completed, printed to be mailed or faxed to the Kansas New Hire Directory at the address and fax shown below.

EMPLOYER INFORMATION

Federal Employer ID Number (FEIN) – use the same FEIN as that listed on employer’s quarterly wage report:

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Employer name: _____

Employer address (use address where *Income Withholding Orders* should be sent):

City: _____ State: _____ ZIP: _____

Employer phone: _____

Employer fax: _____

Contact name: _____

Email contact: _____

EMPLOYEE INFORMATION

Employee Social Security Number (SSN):

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First name: _____ MI: ____ Last name: _____

Employee home address: _____

City: _____ State: _____ ZIP: _____

Date of hire (MM/DD/YYYY):

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