Avoiding the Pitfalls
In A Layoff World

A Webinar Panel Presentation by

**EPIC – Employment Practices Improvement Committee**

The presentation will start at **10:00a.m.**

- Please dial 1-866-740-1260
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Avoiding the Pitfalls In A Layoff World

A webinar panel presentation by EPIC-UC’s Employment Practices Improvement Committee

July 21, 2011
Panelists

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Introduction

Pre Layoff Pitfalls

Post Layoff Concerns

Litigation – Common Themes

Positive Transitions
Layoff Units

- Make sure they are logical

- Remember changes to the layoff unit have to be bargained absent waiver language in the CBA
Follow Policy/Collective Bargaining Agreement

- Skills, Knowledge and Ability
  - Make sure your business justification is based on the facts and can be sustained
  - Best Practice: have a substantive review by someone with expertise outside of the department
Layoffs as a Result of Subcontracting

- Check the Collective Bargaining Agreements!
  - There are limited reasons in some collective bargaining agreements which would allow subcontracting.
  - The “poison pill”

- OP Required Justification for Certain Contracting Out Arrangements
  - Ks over $100,000 and which involve displacement of University staff
Union involvement

- Notice to the Unions
- Meet and discuss for non-represented employees
- Requests for Information
- Where there is no CBA in place, unions can demand to bargain the effects of layoff
- Unions are demanding Skelly notices and hearing for laid off employees
- Unions are challenging layoffs out of seniority order
- “Waiver” of bumping rights vs. “election” not to bump
- What happens to someone who elects not to bump?
  - Layoff or Resignation?
Restructuring/Reorganizing

- Need for a solid business plan

- A Word .... about “applying for your own job”
Treating your employees with dignity and respect

- Balancing concerns about sabotage and fomenting unrest vs. doing the layoff as humanly as possible
Failure To Hire Preferential Candidates

- Preferential rehire and the reluctant manager.
  - Don’t pre-judge candidates based on their layoff status
  - Preferential candidates can be rejected only if they lack the qualifications to perform the job duties & responsibilities based on information from the application, interview and/or other job-related sources
  - At UCLA, our procedure requires departments to notify Employment of the reasons for non-selection
Distribution Of Remaining Workload

- How will you distribute the workload performed by the employee(s) targeted for layoff?
- If there’s to be a temporary redistribution, have you arranged for the payment of stipends?
- Are you planning to post new positions in the department?
  - Will there be an overlap in duties between posted positions and those eliminated through layoff?
Reclassification of Remaining Staff

If the redistribution of work will be permanent, you need to think about:

- Reclassifications of remaining staff:
  - If reclassifying employees out of a bargaining unit, notice must be given to the affected union and may require bargaining
  - Give courtesy notice to the union even if the reclassification will be to a position within the bargaining unit

- Potential impact on bargaining unit work
  Examples: Rx/Tx; CUE
Work-Related Concerns of Remaining Staff

- Have you addressed them?
  - Will there be additional layoffs?
  - Will the department/unit eventually be eliminated?
  - Possible changes in supervision & expectations?

- Goal is to maintain productive and success-oriented staff and to avoid increased filing of worker’s compensation claims related to stress, grievances, whistleblower claims, etc.
Post-Reorganization Litigation: What We See and What We Can Do to Minimize the Risk
Most Common Types of Plaintiffs

- “I was improperly selected for lay off”
- “The reason for the lay off is a pretext”
- “I was not offered the same benefits as others”
- “I’m just mad”
"I was improperly selected for lay off"

- Carefully develop and **document** objective criteria for selection

- The less individual discretion used the better
“The reason for the lay off is a pretext”

- Adverse impact analysis

- Someone other than the decision-makers should review the individual decision to terminate

- Carefully document the business reasons for the reorganization
“I was not offered the same benefits as others”

- Develop consistent communication plan
- Be careful about issues with retirement
“I’m just mad”

- Prime potential claim of retaliation: they know it is coming
- Good communication
- Soften the blow with good transitional benefits
UC Berkeley’s Transition Services

Prepared for EPIC Panel
Thursday, July 21, 2011
Overview

- Background
- Staffing
- The program
- Success rate
- Online job search tools
- Some observations
Background

May 2009 - launched in anticipation of budget related layoffs

Concept – Help the displaced employee at the beginning of the transition

- provide one on one, and group support
- career training and counseling
- job placement
- Specialized support was added for displaced managers

Fall 2010 – received UCOP Risk Services Best Practices Award for Loss Prevention Employment Liability Program
Career Management: Transition Map

Denial
Anger
Shock
Fear
Confusion
Stress
Approach - Avoidance
Chaos
Creativity
Acceptance
Hope
Impatience
Energy
Anticipation
Enthusiasm
Exploration
Staffing

Recruiters
- Special Placement Coordinator/Recruiter
- Senior Recruiters

Trainers
- All Staff are experienced HR trainers

Counselors
- In-house UCB Professional Career Counselors
- Additional counseling through in-house Employee Assistance
Intake Meeting

Review

- Rights based on their contract or policy
- Review types of jobs they are eligible for based on title codes
- Resume and cover letter review
- Resource packet
- Benefits
Transition Services Program

Networking Events

Job club

Employer forums

UC Berkeley Alumni LinkedIn

Workshops
  • Managing Career Change
  • Resume Development
  • Interviewing & Job Search Strategy
New Offerings

Additional job placement tools
- Job Placement News
- Job Hunter Pro Online Outplacement Portal $149

Manager Transition Program
- Executive Roundtable and Career Counseling sessions
- Executive/Manager Career Handbook - $29

Fidelity Budgeting Classes

Transition Services Career Events (April 2011)
Success Rate, 2009/10

- 322 Participants in fy 2009/10
- 247 Training Classes/ 3333 Participant Training Hours
- 187 Career Counseling Sessions
- 43% placement rate
  - Use networking events and job clubs
  - Temporary and permanent positions
- Over 250 job leads
  - UCB Staff Alumni Social Network
- Developed a Temporary Opportunity Program (TOPs)
Job Search Portal

Enter your username and password sent by e-mail from JobHunterPro.
8 STEPS TO AN EFFECTIVE JOB SEARCH

This 8-Step process provides a framework for conducting your search.

Job Search Highlights

Planning and Executing Your Job Search Strategy

- **Take Inventory**
  - Create a Skills Inventory
    - Personal Skills
    - Work Traits/Habits
    - Competencies
    - Job-Related Experience
    - Accomplishments
    - Education
    - Past Recognition

- **Research and Plan**
  - Know Your Environment
    - The job market
    - Set a Search Objective
    - Search Strategy
    - Know Employer Needs
    - Know Industry Trends

- **Prepare Resumes**
  - Resume Preparation
    - Choose Format
    - Show Accomplishments
    - Concise & Easy to Read
    - Ten-Second Review
    - Job-Specific Focus

- **Write Cover Letters**
  - Prepare First Draft
    - Review with a Friend
    - Keep them short
    - Focus on Job Needs
    - Five-Second Review
    - Job-Specific Focus

- **Begin Networking**
  - Networking Begins
    - Open the Hidden Market
    - Explore all Contacts
    - Provide your Resume
    - Ask for Referrals
    - Respect their Time

- **Prep for Interviews**
  - Preparation is Key
    - Know What to Expect
    - Plan for Contingencies
    - First Impression Issues
    - Utilize Interview Master
    - Practice ... Practice

- **Interview**
  - Selling Yourself
    - Flex Ahead
    - Be Prepared
    - Positive First Impression
    - Show Interest
    - Don’t Display Nervous
    - Be Professional

- **Negotiate**
  - Negotiation Strategy
    - Know What and When
    - Know your Strategy
    - Be Observant
    - Make it Win/Win
The Job Interview Trainer has over 500 sample questions.
Some observations

- Management buy-in to transitioning services has increased in recent months
- Given positive response, broader outreach has been developed
- Partnering with EAP and the campus career library has led to support for the employees and easing of negative feelings
Questions?