

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
- access code: 987-9289
- PLEASE MUTE YOUR PHONE
- PLEASE DO NOT PUT US ON HOLD



Avoiding the Pitfalls In A Layoff World

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

July 21, 2011

Panelists

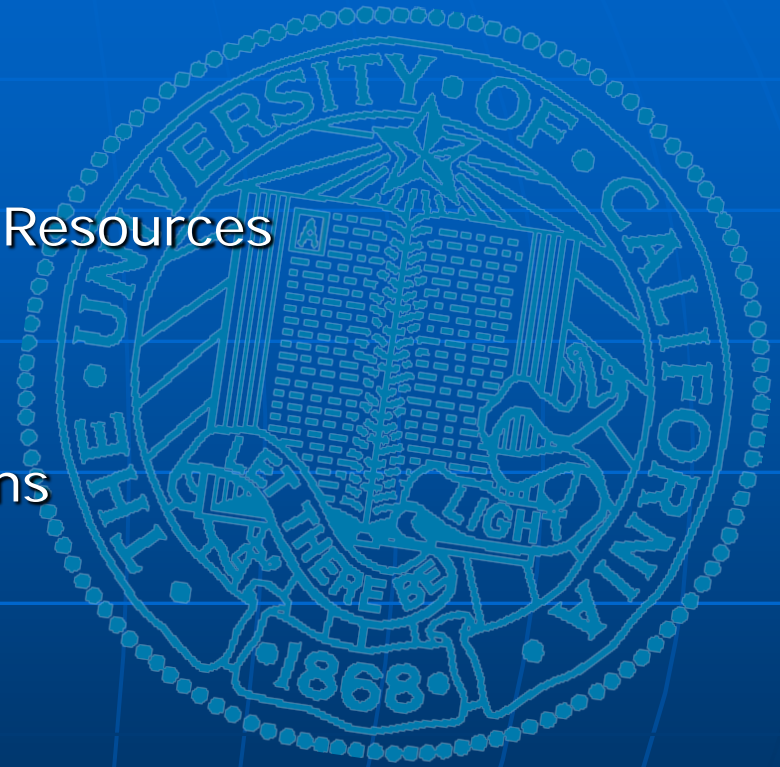
Marcie S. Isom
Gordon & Rees, LLP

Jeannine Raymond
Assistant Vice Chancellor, Human Resources
UC Berkeley

Lynne Thompson
Employee Relations/Labor Relations
UC Los Angeles

Leslie Van Houten
Office of General Counsel

Moderator: Carole R. Rossi
Chief Campus Counsel
UC Santa Cruz



Introduction

Pre Layoff Pitfalls

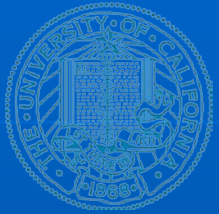


Post Layoff Concerns

Litigation – Common Themes

Positive Transitions

Layoff Units



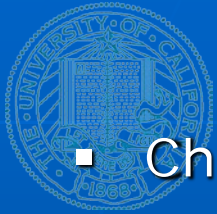
- Make sure they are logical
- Remember changes to the layoff unit have to be bargained absent waiver language in the CBA

Follow Policy/Collective Bargaining Agreement



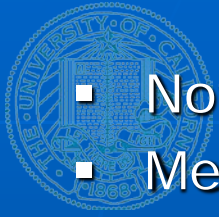
- Skills, Knowledge and Ability
 - Make sure your business justification is based on the facts and can be sustained
 - Best Practice: have a substantive review by someone with expertise outside of the department

Layoffs as a Result of Subcontracting



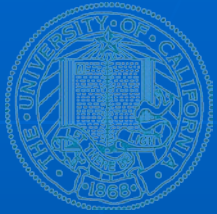
- Check the Collective Bargaining Agreements!
 - There are limited reasons in some collective bargaining agreements which would allow subcontracting.
 - The "poison pill"
- OP Required Justification for Certain Contracting Out Arrangements
 - Ks over \$100,000 and which involve displacement of University staff

Union involvement



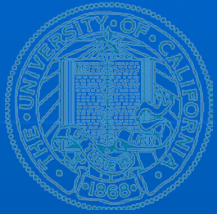
- Notice to the Unions
- Meet and discuss for non-represented employees
- Requests for Information
- Where there is no CBA in place, unions can demand to bargain the effects of layoff
- Unions are demanding Skelly notices and hearing for laid off employees
- Unions are challenging layoffs out of seniority 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



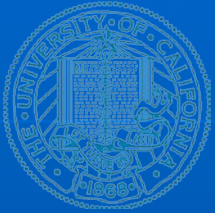
- Balancing concerns about sabotage and fomenting unrest vs. doing the layoff as humanly as possible

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?

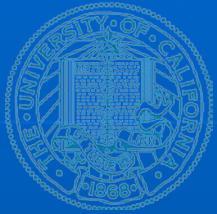
Reclassification of Remaining Staff



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

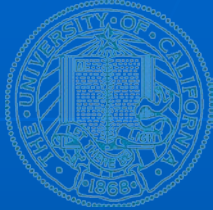
- Reclassifications of remaining staff:
 - If reclassifying employees out of a bargaining unit, notice must be given to the affected union and may require bargaining
 - Give courtesy notice to the union even if the reclassification will be to a position *within* the bargaining unit
- Potential impact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

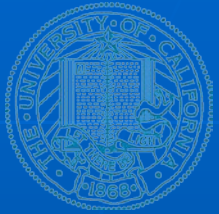
- Goal is to maintain productive and success-oriented staff and to avoid increased filing of worker's compensation claims related to stress, grievances, whistleblower claims, etc.



Post-Reorganization Litigation: What We See and What We Can Do to Minimize the Risk

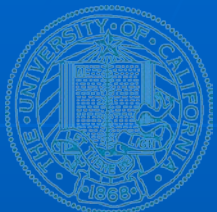


Most Common Types of Plaintiffs



- "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"

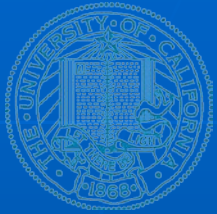
"I was improperly selected for lay off"



- 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

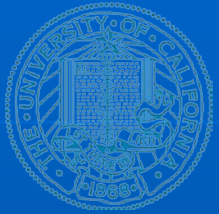


"I was not offered the same benefits as others"

- 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

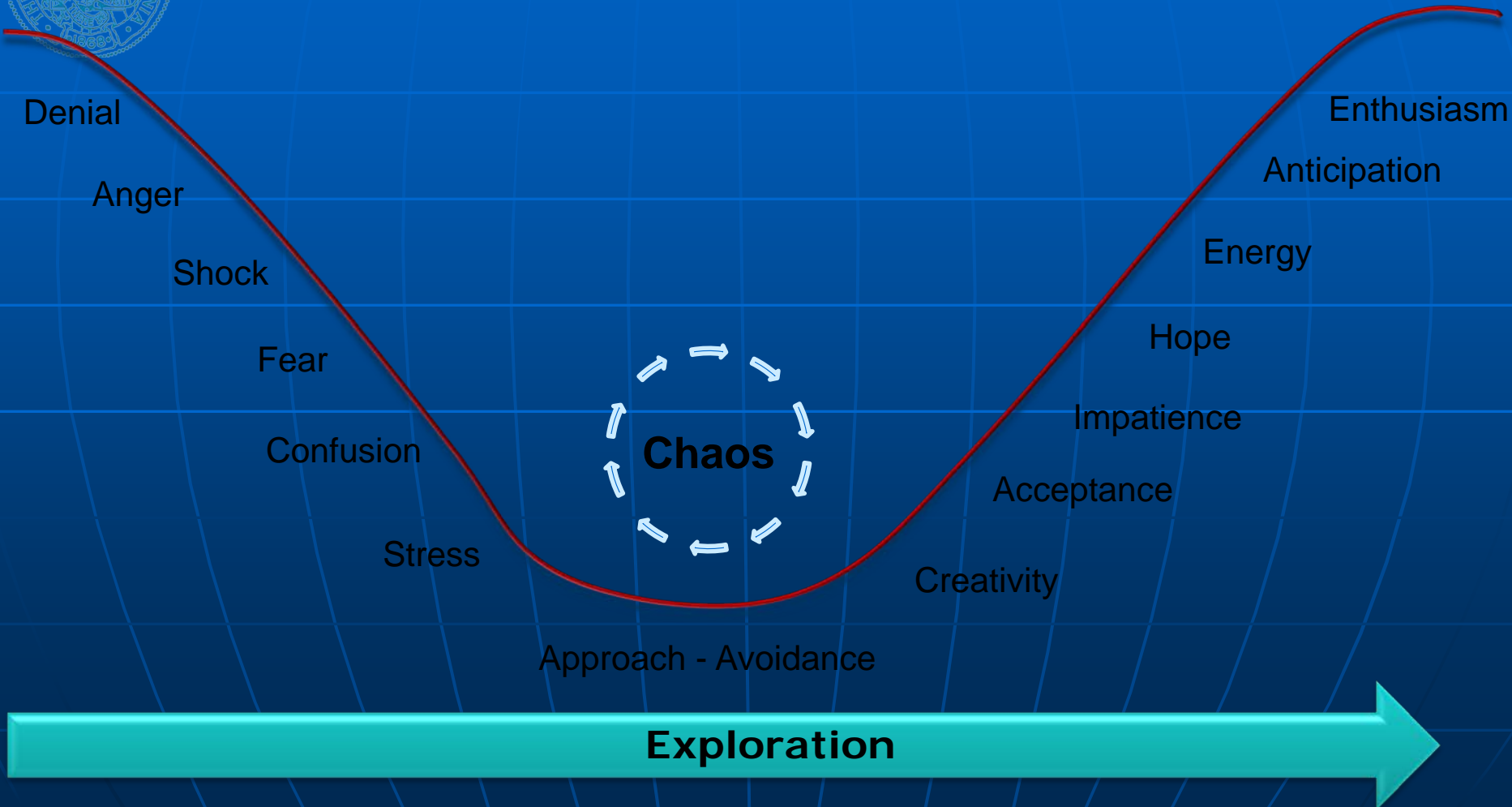
Concept – Help the displaced employee at the *beginning* of the transition

- 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





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

Transition Services Program

JOB SEARCH PORTAL

Wednesday, July 21, 2010

Home
Login

UC Berkeley Transition Services Program - Job Search Portal Login

When you login, you'll enter UC Berkeley's Job Search Portal powered by Job Hunter Pro. You'll get access to online job search information, advice, tools, and support.

Note: this website is for individuals authorized by UC Berkeley. You must have a University-issued username and password to login. Please contact the UC Berkeley Human Resources Department if you have questions about your eligibility to access this website. For technical questions or problems logging in, please contact [Job Hunter Pro](#).



Login

User Name:

Password:

8 STEPS TO AN EFFECTIVE JOB SEARCH

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

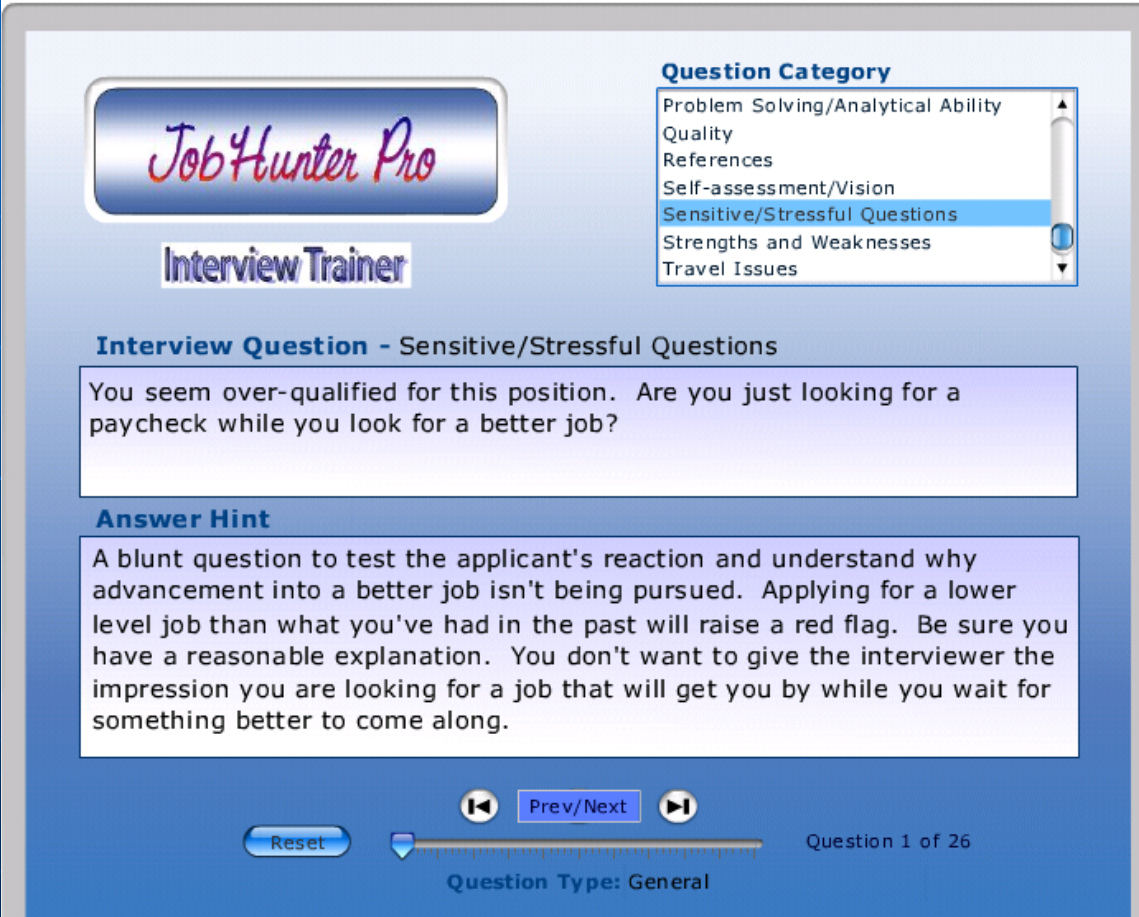
Job Search Highlights

Planning and Executing Your Job Search Strategy



JOB INTERVIEW TRAINER

The Job Interview Trainer has over 500 sample questions.



The screenshot shows the 'Job Hunter Pro Interview Trainer' interface. At the top left is a logo with the text 'Job Hunter Pro' in a red script font and 'Interview Trainer' in a blue sans-serif font below it. To the right is a 'Question Category' dropdown menu with a scroll bar, listing categories: Problem Solving/Analytical Ability, Quality, References, Self-assessment/Vision, Sensitive/Stressful Questions (highlighted), Strengths and Weaknesses, and Travel Issues. Below the menu is the 'Interview Question - Sensitive/Stressful Questions' section, which contains the question: 'You seem over-qualified for this position. Are you just looking for a paycheck while you look for a better job?'. Underneath is an 'Answer Hint' section with the text: 'A blunt question to test the applicant's reaction and understand why advancement into a better job isn't being pursued. Applying for a lower level job than what you've had in the past will raise a red flag. Be sure you have a reasonable explanation. You don't want to give the interviewer the impression you are looking for a job that will get you by while you wait for something better to come along.' At the bottom, there is a 'Reset' button, a 'Prev/Next' button with left and right arrow icons, a progress bar, and the text 'Question 1 of 26' and 'Question Type: General'.

Job Hunter Pro
Interview Trainer

Question Category

- Problem Solving/Analytical Ability
- Quality
- References
- Self-assessment/Vision
- Sensitive/Stressful Questions**
- Strengths and Weaknesses
- Travel Issues

Interview Question - Sensitive/Stressful Questions

You seem over-qualified for this position. Are you just looking for a paycheck while you look for a better job?

Answer Hint

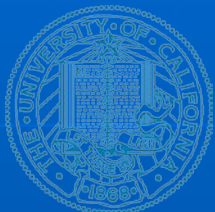
A blunt question to test the applicant's reaction and understand why advancement into a better job isn't being pursued. Applying for a lower level job than what you've had in the past will raise a red flag. Be sure you have a reasonable explanation. You don't want to give the interviewer the impression you are looking for a job that will get you by while you wait for something better to come along.

Reset

Prev/Next

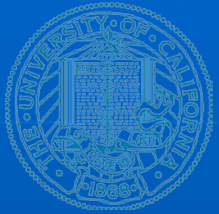
Question 1 of 26

Question Type: General



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?