

FURLOUGHS AND RIFs

Signs of the Times: Use of Furloughs and Reductions in Force to Cut Costs

By Attorneys Debra Weiss Ford
and Nancy E. Oliver

In these difficult economic times, many employers are searching for ways to reduce costs to stabilize the overall financial health of a company. Employers are routinely exploring cost-cutting measures which may include voluntary attrition programs, furloughs, reducing work hours and or benefits, reducing or freezing wages and reductions in force (“RIFs”).

I. FURLOUGHS

Employers who must improve a company’s financial status may consider a furlough. A furlough is a temporary leave or temporary layoff which may be voluntary or involuntary. It may be for a few days or weeks, and it is usually unpaid. Typically, employee service time is unaffected, and most benefits can be continued if an employer is proactive in how it structures the furlough. The company benefits by saving payroll dollars in the short term and having employees who are already trained and skilled when the company’s health improves and the furlough is discontinued. The employees benefit by maintaining their service time, having a job (some income is better than no income), and having some or all of their benefits continue. Furloughed employees can apply for unemployment benefits if they are otherwise eligible for unemployment compensation pursuant to New Hampshire law.¹

For exempt employees, employers must be aware of the salary-basis test. An employer cannot make deductions from an exempt employee’s pre-determined compensation for absences “occasioned by the employer or by the operating requirements of the business.”² If an exempt employee is required to work during the furlough period (for example, checking e-mail or returning phone calls), the employee must be paid the full salary for that week. The company can require the employee to apply vacation time to that workweek, as long as the employee receives the guaranteed amount of salary. The company does not have to pay the employee for any week in which the employee does not work.³ The company can make a bona fide reduction in the employee’s salary indefinitely or for a specified period of time due to economic reasons, such as a decrease in the employee’s workload, as long as the reduction is not designed to circumvent the salary-basis test.

Under New Hampshire law, employers considering a furlough

for exempt employees must take care to ensure that the furlough period encompasses the entire pay period of the salaried employee. New Hampshire statute requires that a salaried employee receive his or her full salary for any pay period in which the employee performs any work.⁴ Thus, an employer would violate New Hampshire law with regard to exempt employees if it instituted a furlough of one day a week, for example by closing the company every Friday and only paying those employees for work performed Monday through Thursday. This practice would result in an impermissible deduction from an exempt employee’s pay. Likewise, if an employer has a two-week pay period but only wants to have a one-week furlough, this is also impermissible for exempt employees under New Hampshire law. The exempt employee would still be entitled to the salary for the full two-week pay period, even though the employee only worked for one week, since the employee nonetheless performed some work during the pay period. Accordingly, employers planning to utilize a furlough as a cost-cutting measure should ensure that the furlough period *complies with both federal and state laws* requiring that exempt employees receive their full salary for pay periods in which work is performed.

Employers may also want to explore other cost-saving options such as restructuring benefit offerings to provide those that are most attractive to employees while remaining within the employer’s budget. Overall, economies can be achieved while maintaining employee satisfaction with a benefit plan by changing premium contributions, co-pays, deductibles, and out-of-pocket maximums. Employers may also consider increasing deductibles or utilizing health savings plans.

Other potential alternatives to a RIF include:

- hiring freezes;
- wage and bonus freezes;
- bonus reductions;
- postponement of wage increases;
- job-sharing;
- work furloughs of limited duration;
- reducing work hours and proportionate pay cuts;
- discontinuance of temporary or part-time workers and redistribution of their work;
- reduce or eliminate specific 401(k) match programs. Employers can still make matching contributions if affordable at year-end;

- institute voluntary unpaid sabbatical opportunities; and
- employee transfers.

Under federal and New Hampshire law, employers are allowed to reduce an employee's pay as long as the employee is notified of such reduction in writing prior to the change taking place.⁵ An employer who desires to reduce the work hours of an exempt employee faces the same issues as an employer who wishes to furlough an exempt employee; specifically, an exempt employee who performs any work during a pay period must be paid his or her full salary. Therefore, a reduction in hours of exempt employees is not recommended.

II. FEDERAL AND STATE WARN ACTS

If none of the alternatives to a reduction in force are feasible to achieve the necessary cost-savings, a reduction-in-force may be the only remaining option. Before implementing a RIF, there are certain laws that employers must follow regarding the notification of employees.

1. The Federal WARN Act

The federal Worker Adjustment Retraining and Notification Act ("WARN")⁶ requires that employers provide 60 days' advance written notice of a plant closing or a mass layoff. The Act applies to employers who employ either: (1) 100 or more employees, excluding part-time employees; or (2) 100 or more employees who in the aggregate work at least 4,000 hours a week, exclusive of overtime.⁷ WARN directs covered employers not to order a "plant closing" or a "mass layoff" until 60 days after notice of the closing or layoff is provided to certain state and local government officials and affected employees or their union representative.⁸

The Act provides for an exception to the 60-day-notice period if there is a natural disaster, unforeseeable business circumstances, or a faltering company.⁹ The "faltering company" exception applies only to plant closings, and it covers situations where a company has sought new capital or business in order to stay open and where giving notice would ruin the opportunity to get new capital or business. The employer has the burden of proof to show that one of the exceptions applies.

The Act defines a "plant closing" as a permanent or temporary shutdown of a single site or units within a single site of employment if the shutdown results in an "employment loss" during any 30-day period for 50 or more employees, excluding any part-time employees.¹⁰ A "mass layoff" is defined as an "employment loss" (not the result of a plant closing) at a single site of employment during a 30-day period either for 500 employees (excluding part-time employees) or at least 33 percent of the employees at that site, if 33 percent equals or exceeds 50 employees (excluding part-time employees).¹¹ The term "employment loss" means: (1) an employment termination other than a discharge for cause or voluntary departure of retirement; (2) a layoff exceeding six months; or (3) a reduction in an employee's hours of work of more than 50 percent each month of any six-month period.¹²

An employer who violates the provisions of WARN may be liable

for compensation to employees who suffer an "employment loss" as a result of the closing or layoff. Compensation may include back pay and benefits (including the cost of medical expenses that would have been covered had the closing or layoff not occurred) for up to 60 days.¹³ In addition, the employer may be subject to a civil penalty of up to \$500 for each day of the violation and may be required to pay the opposing party's attorney's fees.¹⁴

To comply with the Act, employers must provide all affected employees or their representatives (e.g., labor unions) with at least 60 days' written notice of the plant closing or mass layoff.¹⁵ Notice must also be provided to the State dislocated worker unit (in New Hampshire, the Department of Employment Security) and the chief elected official of the city or town in which the affected facility is located.¹⁶ Notice to each affected employee must be written in plain language and must include:

1. a statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
2. the expected date when the plant closing or mass layoff will commence and the expected date when the individual employee will be separated;
3. an indication as to whether or not bumping rights exist; and
4. the name and telephone number of a company official to contact for further information.¹⁷

The notice may include additional information that may be useful to the employees such as information on available dislocated worker assistance.¹⁸

If the employee is represented by a union, notice to each representative of affected employees must contain:

1. the name and address of the employment site where the plant closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information;
2. a statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
3. the expected date of the first separation and the anticipated schedule for making separations;
4. the job titles of positions to be affected and the names of the workers currently holding affected jobs.¹⁹

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.²⁰

The notices provided to the state dislocated worker unit and to the chief elected official of the city or town in which the facility is located must contain:

1. the name and address of the employment site where the plant closing or mass layoff will occur, and the name and telephone

number of a company official to contact for further information;

2. a statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
3. the expected date of the first separation and the anticipated schedule for making separations;
4. the job titles of positions to be affected and the number of affected employees in each job classification;
5. an indication as to whether or not bumping rights exist; and
6. if applicable, the name of each union representing affected employees and the name and address of the chief elected officer of each union.²¹

The notice may also include additional information that may be useful to the state and local government.²²

As an alternative to the notice outlined above, an employer may give notice to the state dislocated worker unit and to the local chief elected official by providing them with a written notice stating:

1. the name and address of the employment site where the plant closing or mass layoff will occur;
2. the name and telephone number of a company official to contact for further information;
3. the expected date of the first separation; and
4. the number of affected employees.²³

If an employer chooses to provide the alternative notice, the employer must maintain at the work site the information that would otherwise be included in the more detailed notice. The information must be maintained in a form readily accessible to the state and local government officials.

Any reasonable method of delivering the notice to the affected employees and state and local government officials is acceptable as long as it is designed to ensure receipt of notice at least 60 days before the first separation is to occur. For example, an employer may choose to use first-class mail, personal delivery, or may insert the notice into pay envelopes.²⁴ The statute and regulations can be found on the United States Department of Labor's website: www.dol.gov.

2. New Hampshire SB 40: New Hampshire Worker Adjustment and Retraining Notification Act

In the last session, the New Hampshire Legislature passed a bill that would parallel the federal WARN Act in some respects and impose even stricter requirements on employers in New Hampshire. The bill (SB 40), entitled the New Hampshire Worker Adjustment and Retraining Notification Act, seeks to protect workers "by requiring the advance notice of significant employment losses and by providing a means for workers to seek a remedy through administrative procedure." The New Hampshire WARN Act, (which becomes Chapter Law 325 or RSA 275-F

(effective Jan 1, 2010) allows the State of New Hampshire to pursue claims for employees whose rights under the law are violated and would provide a mechanism for asserting liens against the assets of employers who are liable for violations. The law takes effect January 1, 2010.

For purposes of the New Hampshire WARN Act a mass layoff would include a reduction in force that does not occur as a result of a plant closing and that causes an "employment loss" at a single site of employment during any 30-day period for: (a) at least 250 employees, excluding part-time and seasonal employees, or (b) at least 25 employees, excluding part-time and seasonal employees, if they constitute 33 percent of the full-time employees of the employer.

"Employment loss" is defined as an employment termination other than a termination for cause, voluntary quit, or retirement; a layoff exceeding six months in duration; or a reduction in hours of work of more than 50 percent during each month of any six-month period. A "plant closing" is defined as the permanent or temporary shutdown of a single site of employment resulting in an employment loss during any 30-day period for 50 or more employees, excluding part-time employees.

The new state law applies to establishments that employ 75 or more employees, excluding part-timers. As noted above, the federal WARN Act only covers employers with 100 or more employees, excluding part-time and seasonal workers. Thus, the New Hampshire WARN Act covers many employers not subject to the federal WARN Act.

The New Hampshire WARN Act holds employers liable for failing to give advance notice of covered layoffs or plant closings. For purposes of the Act, "employer" would include any entity that directly or indirectly owns and operates a business enterprise that employs 75 or more qualifying employees.

The New Hampshire WARN Act calls for compensatory damages that could include back pay and the value of benefits for employees who were denied the required notice of an impending plant closure or layoff, as well as reasonable attorneys' fees and costs. Beyond compensatory damages, violators could be subject to civil penalties of \$2,500, plus additional fines of up to \$100 per employee for each day of noncompliance.

3. NH RSA Chapter 282-A:54-a

New Hampshire law also requires employers to file notices of "mass layoffs" with the New Hampshire Department of Employment Security ("NH DES") if an employer lays off or expects to lay off 25 or more employees in the same calendar week for an expected duration of seven days or more.²⁵ The notice of mass layoff must be filed if the temporary or permanent layoff is for the purpose of vacation or holiday shutdown or company closure. This definition of "mass layoff" is different than the federal WARN Act definition, and the requirements of this law are in addition to and not in lieu of the requirements of the WARN Act.

Under this New Hampshire law, if an employer fails to report a mass layoff as required, the employer irrevocably waives its right to

be heard by the NH DES before a determination is made as to whether to award unemployment compensation benefits to an employee on layoff. The law provides that “Benefits charged to [the employer’s] account will remain so charged even though the claimant is, by reason of some later decision, held not to be entitled to such benefits.”²⁶

Employers may request a waiver from the reporting requirement. A waiver may be granted by the NH DES if it determines that it is unlikely that 25 or more laid-off employees will file an initial claim for benefits due to the expected receipt of wages during the layoff period. If a waiver from filing the mass layoff report is granted, the waiver will become void if 25 or more individuals laid off from the employer claim benefits.²⁷

III. REDUCTIONS IN FORCE

Before implementing a RIF, employers should consider several issues and proceed with care.

When laid-off workers have a difficult time finding a new job, they are more inclined to sue their former employers. Such suits may be more prevalent in the current economic downturn than in more prosperous times. A RIF must be carefully planned and implemented following a process that identifies inefficiencies in a company’s workforce and reduces, or eliminates, such inefficiencies.

Done correctly, a RIF can reduce payroll, identify and eliminate unnecessary personnel, resulting in significant cost savings. Done incorrectly, a RIF can hurt morale, irreparably harm the company, increase the risk of lawsuits, add expensive attorneys’ fees, and, paradoxically, result in a cost increase.

Employers considering workforce reductions should keep the following suggestions in mind:

1. Planning for Reduction in Force (RIF)

A successful workforce-reduction process requires careful and early planning and it may take several months from start to finish. However, challenging economic conditions have made extended time for planning a luxury many employers can no longer afford. To cope with the increased pressures created by the present environment, employers should develop policies for periodically evaluating their staffing levels. In planning for a RIF, employers should:

- **Consider the feasibility of the alternatives to a RIF as discussed above.**
- **Plan for continuous operations and sustained morale** – Early in the reduction-planning process, the employer should evaluate job functions and skills and decide whether they are essential or may be eliminated or consolidated. The employer should conduct the process as quickly as business conditions permit to maintain acceptable productivity levels and employee morale. Human resource administration should continue as normally as possible, administering performance reviews and counseling notices. The employer should not use

selection for layoff as a substitute for incomplete performance management.

- **Documenting the decision and reasons** – The company must document the reasons for a RIF and what the company plans to accomplish; that is, why is a RIF being done and what are its benefits. The employer should document the financial conditions necessitating the RIF.
- **Ensure compliance under state laws** – The employer should recognize that a workforce reduction may trigger compliance under various state laws governing payment of wages, insurance and severance benefits continuation, personnel record access, plant closings, layoffs, and involuntary termination.
- **Determine impact on pension and benefits plans** – Before taking action, the employer should investigate whether a layoff will trigger the vesting of pension or benefit plans for some employees. A partial termination of a pension or benefit plan may be a reportable event under the Employment Retirement Income Security Act (“ERISA”). An employer should understand that terminations may constitute withdrawal from a multi-employer pension plan and cause employers to incur substantial liability. The employer must ensure that all ERISA notice requirements will be met.
- **Access eligibility criteria and plan requirements** – The employer should make it clear who qualifies to receive severance benefits and the variables that influence the calculation of the amounts. Also, the employer should make it clear in policies that employees’ receipt of severance benefits beyond those to which they already may be entitled is conditioned on the signing of a general release of claims.
- **Consider “WARN” and contract obligations** – The employer should realize that, if triggered, the federal Worker Adjustment and Retraining Notification Act (“WARN”) and comparable state laws, discussed above, provide specific time limits and notice requirements for certain group termination programs. Assess existing limitations, liabilities and/or bargaining obligations related to layoffs created by collective bargaining agreements and other types of contractual employment obligations.

Employers should also:

- Review existing severance plans and incentive compensation plans, and eliminate ambiguities regarding benefit calculations;
- Review situations where employees owe money/time to ensure payment can be accelerated and reconciled from severance pay;
- Review offer letters;
- Review employee handbooks;

- Review employment agreements;
- Consider foreign law implications if there are international operations;
- Be prepared to present final paychecks, including accrued vacation if applicable;
- Review impact of bonus and commission plans;
- Be prepared to present information on how to obtain unemployment benefits.²⁸

2. Selecting Employees for Layoff

A critical aspect of any layoff is identifying the criteria by which employees will be selected for termination. In the easiest of cases, the decision is guided by the nature of and necessity for the work performed (e.g., where a particular position or product line is being eliminated). In other cases, management must determine job-related selection criteria that can pass muster if the reduction program is subject to legal challenge.

- **Prioritize selection factors** – Unless an individual employment contract or collective bargaining agreement provides otherwise, layoff decisions can be based on legitimate business needs rather than predetermined criteria. These criteria may, however, be tested by a court or administrative agency to determine whether they are truly job-related if the resulting RIFs disproportionately impact employees in protected classes. Base selection on quantifiable and objective factors, such as: (1) length of service or seniority; (2) elimination of unnecessary job classifications; (3) elimination of certain categories of employment (e.g., temporary, part-time, or contract workers); (4) pre-existing job appraisal data that indicates that the employee will be able to perform successfully job functions that will be critical to the company after the RIF; and (5) disciplinary actions taken for severe or persistent performance problems. Initially, employers should select individuals with serious performance/disciplinary problems. Also, employers should rank the remaining employees within job categories for their ability to perform job functions essential to the post-RIF recovery.
- **Strive for objectivity** – Employers should identify the individual abilities of similarly situated employees in necessary positions to perform essential job duties and analyze the comparative performance and skills of employees with emphasis on fulfilling the post-reduction job functions and requirements.
- **Review for possible disparate impact** – Employers should evaluate initial selection decisions prior to implementing layoffs and determine if there will be any disproportionate effect on minorities, women, or workers 40 years of age or older. If so, employers should evaluate whether the selection of these individuals can be justified by business necessity, or in the case of older workers, by reasonable factors other than age.

It is also important to consider the impact that the layoff will have on employees who are on Family or Medical Leave or

workers' compensation leave, Americans with Disabilities Act ("ADA") leave, leave under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), whistleblowers, and employees about to vest in benefit plans, because these employees may have claims that the RIF interfered with their protected rights.

- **Announcing the RIF** – The communication to and treatment of employees being let go often determines whether an employee will file suit. Even if the company is certain that its layoff criteria and process are watertight, there is no point in subjecting the company to an unnecessary lawsuit. Employers should plan carefully how affected employees will be told of the decision and how they will be told of benefits, if any, they will receive at the time of the layoff or termination.

When a RIF is made for economic reasons, it may seem counter-intuitive to offer benefits. The expense of such benefits (six weeks' salary, one month of health care, job placement assistance, for example), pale in comparison to the cost of litigation and the cost of lost productivity of remaining employees who may participate in defending the employer if there is litigation. Because of this, the most commonly offered benefit is a severance package in return for a release of all claims. Although releases do not perfectly protect against litigation, often they can be used to end litigation swiftly and inexpensively. (See related article in this issue that deals specifically with the laws covering such releases.)

- **Craft releases to comply with statutory requirements** – Employers can reduce their exposure to individual and class-wide claims of discrimination dramatically by obtaining releases of such claims from employees who participate in voluntary and involuntary workforce reduction programs. Careful drafting is the key to enforceable release agreements in a RIF situation, and strict compliance with legal requirements is critical to the effectiveness of any release.²⁹

IV. TERMINATION DECISIONS AND FINAL STEPS

When it becomes necessary for an employer to terminate an individual employee, employers should first review the facts and circumstances surrounding the decision with a disinterested party, such as another member of management, human resources, or legal counsel. In particular, employers should ask the following questions before proceeding to termination.

1. **Does the employee have a legitimate explanation for his/her actions or poor performance?** Employers should promptly warn an employee in writing of any performance or discipline issue that could result in termination. If not, the employee will likely be surprised when he or she is fired, which invariably causes an employee to consult counsel.
2. **Does the punishment "fit the crime?"** Consider whether a neutral third party would agree that termination was fair given the nature of the conduct or the seriousness of the performance problems.

3. **Is the decision to terminate inconsistent with previous actions of the company?** For example, has the employee recently received a favorable performance review, promotion or pay increase? If yes, this would make it more difficult for an employer to justify terminating an employee for performance-related issues.
4. **Is the decision to terminate premature?** Determine whether alternatives to termination are more appropriate, such as giving an employee a “last chance” or placing the employee on a performance improvement plan.
5. **Does the employee have any pre-termination rights?** Ensure that any pre-termination policies of the company, such as allowing the employee a grievance hearing, are followed.
6. **Has the company administered discipline in a consistent manner?** Many lawsuits arise out of an employee’s belief that he or she has been treated differently than other employees based upon inclusion in a protected class. Employers should ensure that members of a protected classification are treated the same as employees outside the protected classification who engaged in similar conduct, under similar circumstances (severity of conduct, prior offenses, length of employment etc.).
7. **Consider other potential legal issues.** The employer should consider the employee’s status before terminating him or her to make sure that there are not any potential legal claims immediately presented by the termination. For example, terminating an employee who is on a protected leave of absence under the Family Medical Leave Act or Uniformed Services Employment and Reemployment Rights Act may lead to a retaliation claim or a claim for failure to reinstate. Discharging an employee who is out on workers’ compensation leave or who is considered a protected “whistleblower” may also lead to retaliation claims. The employer should carefully consider both the likelihood of such possible claims and the potential consequences before deciding to implement the termination.

To avoid any possible defamation or retaliation claims, the employer should consider setting up a protocol for responding to any background or reference check inquiries. Such a protocol should address who will respond to any such inquiries and what the person will say. A best practice is for the employer to identify a single point of contact for outside employment inquiries and provide a consistent neutral reference that includes only the dates of employment, position, and job description.

Further, given the threat of potential lawsuits, employers should consider obtaining a waiver or release of all claims in exchange for additional severance pay or other benefits beyond what an employer is already obligated to give the employee. Employees will often waive claims against the company in exchange for a settlement payment. When drafting any type of releases, employers should ensure compliance with the Older Worker’s Benefit Protection Act, as necessary.

Employers should also be mindful of laws governing the final paycheck. In New Hampshire, if an employer terminates an employee’s employment, the employee must be paid all wages due

within 72 hours.³⁰ The employer must either physically give the payment to the employee or mail it to the employee, at the employee’s discretion. If an employee quits or resigns, the employer must pay all wages due that employee no later than the next regular payday, unless the employee provides at least one pay period’s notice of intention to quit, in which case the employee must be paid all wages due within 72 hours of the final day of employment.³¹ Employers may prorate the salary of an exempt employee who resigns before the end of a pay period.³²

Employers may prorate the salary of an exempt employee who is terminated by the employer “for cause.”³³ However, this exception is narrowly interpreted by the New Hampshire Department of Labor (“DOL”), and the employer should consult an attorney before implementing this provision. Employers who fail to promptly provide the required payment may be held liable for the back wages as well as liquidated damages amounting to 10 percent of the total owed for each day of violation, up to a cap of 100 percent of the total owed.³⁴

Under New Hampshire law, the question of whether any accrued, unused vacation, sick, personal or other similar benefits must be paid upon separation from employment depends on the employer’s policy or practice, and it is strongly recommended that employers affirmatively state in their benefits policies whether the benefits are payable upon separation. When an employer’s policy or practice is to pay such benefits upon separation, then the benefits are considered “wages” and must be paid in accordance with the deadlines described above.³⁵

Additionally, New Hampshire law is specific as to when an employer may make deductions from an employee’s final wages to settle a loan or other debt, such as when an employee “owes” the employer for vacation time that had been advanced to the employee.³⁶ Effective January 1, 2006, employers and employees may enter into written agreements to repay advances of vacation and other leave time from an employee’s final wages, if the written agreement is signed at the time the leave time is advanced, not just before the final check is issued. Employer loans to employees may only be repaid by payroll deduction if the employee voluntarily enters into a written agreement that specifies when the payments will begin and end, the amount to be deducted from each paycheck, and a specific statement as to whether the employer can deduct any remaining balance from final wages at the termination of employment.³⁷ Employers may not make deductions from final paychecks or withhold final paychecks for failure to return uniforms, tools, equipment, keys, etc.³⁸

With the current economic downturn, more employers are forced to resort to furloughs, layoffs and individual terminations to help boost the bottom line and stabilize the company. Although such actions create risk of litigation, careful advanced planning can assist in preventing lawsuits and limiting liability.

ENDNOTES

- 1 N.H. R.S.A. 282-A
- 2 29 C.F.R. § 541.601(a)
- 3 29 C.F.R. § 541.188(c)

4 N.H. R.S.A. 275:43-b
5 N.H. R.S.A. 275:49; Lab 803.03
6 29 U.S.C. § 2102
7 29 U.S.C. § 2101
8 29 U.S.C. § 2102(a)
9 29 U.S.C. § 2102(b)
10 *Id.*
11 *Id.*
12 *Id.*
13 29 C.F.R. § 2104(a)
14 29 C.F.R. § 2104 (a)(3)
15 29 U.S.C. § 2102
16 *Id.*
17 29 C.F.R. § 639.7(d)
18 *Id.*
19 29 C.F.R. § 639.7(c)
20 *Id.*
21 *Id.* at e

22 *Id.*
23 *Id.* at f
24 29 C.F.R. § 639.8
25 N.H. R.S.A. 282-A:45-a
26 N.H. R.S.A. 282-A:45-a, III
27 N.H. R.S.A. 282-A:45-a, IV
28 "Tips for a Layoff or Reduction in Force in Troubled Times," January 9, 2009, https://www.jacksonlewis.com/legal_updates
29 *Id.*
30 N.H. R.S.A. 275:44, I
31 N.H. R.S.A. 275:44, II
32 N.H. R.S.A. 275:43-b, II
33 *Id.*
34 N.H. R.S.A. 275:44, IV
35 N.H. R.S.A. 275:43, V
36 N.H. R.S.A. 275:48
37 N.H. R.S.A. 275:48, I(f)
38 N.H. R.S.A. 275:48

Authors



Debra Weiss Ford

Debra Weiss Ford practices in Portsmouth with the law firm of Jackson Lewis LLP.

Nancy E. Oliver practices in Portsmouth with the law firm of Jackson Lewis LLP.



Nancy E. Oliver