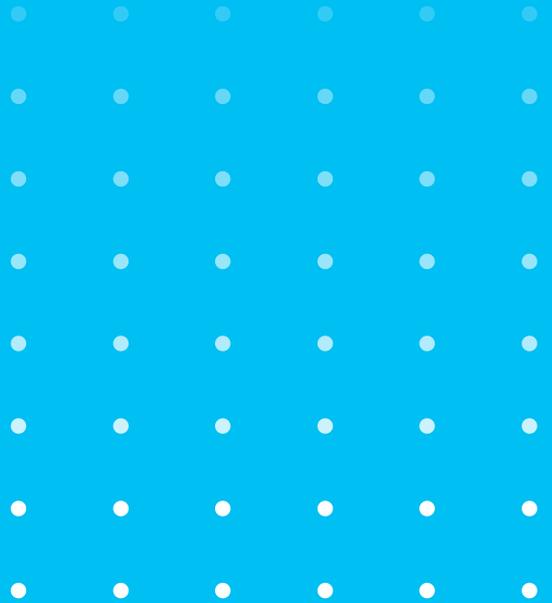




STATE SEPARATION KIT



Introduction

This tool will help you understand the legal implications that arise when your employment relationship with an employee ends, whether that is because you terminate their employment or because they choose to leave CRB Workforce. These legal requirements vary depending on the state where the employee is located. This tool is meant to help you navigate the separation process. The following content is legal information, not legal advice.

For legal advice, you should consult with an attorney.

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Final Paycheck Requirements

Alabama does not regulate how and when final paychecks must be paid. However, it is a best practice to ensure that your departing employees are fully paid their earned wages in a timely manner. Many states require for employers to provide final paychecks on the next regularly scheduled payday. Employers who fail to pay wages to their separated employees can face civil penalties at least equal to the unpaid wages and can even be subject to criminal penalties including jail time. Alabama law doesn't require employers to pay out accrued but unused vacation time upon separation unless the employer has a policy requiring payout.

Separation Notice

All employees in Alabama who separate from employment for any reason must be provided notice of the potential availability of unemployment benefits. Employers can comply with this requirement by supplying [this flyer](#).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Alabama, the state law claims that may be released are all those under the Clarke-Figures Equal Pay

Act ([Ala. Code § 25-1-30](#)) and the Alabama Age Discrimination in Employment Act ([Ala. Code §§ 25-1-20 et seq.](#)).

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Severance Agreements

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Check that the provisions in severance agreements are enforceable

Action

- Check that the provisions in severance agreements are enforceable



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Alabama (such as when the organization separates from its last Alabama employee), it can formally withdraw its registration to do business in that state by submitting the proper form(s) to the Secretary of State. The forms an organization needs to submit vary depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Withdrawal](#), along with a Certificate of Compliance from Alabama's Department of Revenue showing that the Corporation has paid all required state taxes. Corporations can request a Certificate of Compliance on the [Department of Revenue's website](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Withdrawal](#), along with a Certificate of Compliance from Alabama's Department of Revenue showing that the LLC has paid all required state taxes. LLCs can request a Certificate of Compliance on the [Department of Revenue's website](#).

Action

- Check that the provisions in severance agreements are enforceable.

Action

- Withdraw your registration to do business in Alabama (if applicable)



Final Paycheck Requirements

Alaska state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid within 3 working days after the termination.
- Resignation Payment: Employees who resign their employment must be paid on the next regular payday that is at least 3 days after the employer receives the employee's resignation notice.
- Final Wage Amount: Employees must be paid "all wages, salaries, or other compensation for labor or services."
- Payout of Accrued Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be paid where they are usually paid or an agreed-upon other location.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay both the unpaid amount plus an additional 90 days' wages at the employee's regular pay rate.

Separation Notice

All employees in Alaska must be provided notice that they are covered by unemployment insurance.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Alaska, the state law claims that may be released are all those under Alaska's minimum wage and overtime laws and the Alaska Human Rights Act.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Alaska (such as when the organization separates from its last Alaska employee), it can formally withdraw its registration to do business in Alaska by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Withdrawal](#).
- Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Report employee termination

Action

- Withdraw your registration to do business in Alaska (if applicable)

Final Paycheck Requirements

Arizona state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid within the earlier of either 7 working days or the end of the next regular pay period.
- Resignation Payment: Employees who resign must be paid on the next regular payday for the pay period in which their separation occurs.
- Final Wage Amount: Employees must be paid “all wages due him.”
- Payout of Accrued Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee has a reasonable expectation to receive it as established by employer policy or practice.
- Final Paycheck Location: Departing employees must be paid in the usual manner. However, if the employee requests, the employer must pay final wages by mail.
- Failure to Pay Wages Penalties: Employers who fail to pay wages are guilty of a petty offense and subject to a \$300 fine.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in Arizona who separate from employment must be given a printed statement detailing how they can file for unemployment benefits. Arizona also requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Arizona’s state-level COBRA law within 30 days of separation. Usually, the plan administrator will provide the required notice. The notice must:

- Inform the employee and any qualified dependents of their right to continue coverage at the full cost of the coverage, which includes the employer's contribution and the employee's contribution and an administrative fee for the employer that may not exceed five percent of the premium.
- State the amount of the full cost of the coverage, stated separately for the employee and any qualified dependent.
- State the process and deadline for the employee to elect continuation coverage for the employee and any qualified dependent.
- Provide the date and time by which the employee must submit the initial and ongoing payments to the employer to continue coverage.
- Inform the employee that continuation coverage will be lost if the employee fails to pay the premium and administrative fee in a timely manner.

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Arizona, the state law claims that may be released are all those under Arizona's [minimum wage](#) and overtime laws, the [Arizona Employment Protection Act](#), the [Arizona Civil Rights Act](#), and the [Arizona Equal Pay Act](#).

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Arizona (such as when the organization separates from its last Arizona employee), it can formally withdraw its registration to do business in that state by submitting the proper form(s) to the Secretary of State. The forms an organization needs to submit vary depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Withdrawal](#), along with a Clearance Certificate from Arizona's Department of Revenue showing that the Corporation has paid all required state taxes. Corporations can request a Clearance Certificate on the [Department of Revenue's website](#).
- Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Check that you are providing all required notices upon separation.

Action

- Check that you are providing all required notices upon separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Colorado, the state law claims that may be released are all those under Colorado’s [minimum wage and overtime laws](#), the Colorado Equal Pay for Equal Work Act ([C.R.S. §§ 8-5-101 et seq.](#)), Colorado Family Care Act ([C.R.S. § 8-13.3-201](#)), Colorado Pregnant Workers Fairness Act ([C.R.S. § 24-34-402.3](#)), Colorado Anti-Discrimination Act ([C.R.S. §§ 24-34-601 et seq.](#)), and the [Creating a Respectful and Open World for Natural Hair \(CROWN\) Act](#).

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Colorado (such as when the organization separates from its last Colorado employee), it can formally withdraw its registration to do business in that state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a Statement of Foreign Entity Withdrawal. Colorado requires these forms to be filed electronically via the Secretary of State’s online portal. Instructions for doing so can be found [here](#).

Action

- Check that the provisions in severance agreements are enforceable.

Action

- Report terminated employees.

Action

- Withdraw registration to do business in Colorado (if applicable).



Final Paycheck Requirements

Arkansas state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid by the next regular payday.
- Resignation Payment: Arkansas does not dictate how employees who resign their employment are paid, but it is a best practice to pay employees their earned wages in full either before or on the next regularly scheduled payday.
- Final Wage Amount: Employees must be paid “all wages due.”
- Payout of Accrued Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Arkansas does not specify where an employee must be provided their final wages, but it is a best practice to provide wages in the usual manner or by mail if requested by the employee.
- Failure to Pay Wages Penalties: Employers who discharge employees and fail to pay wages within seven days of the next payday must pay double the wages due.

Separation Notice

All employers in Arkansas must provide this notice to employees at the time of separation detailing how the employee can apply for unemployment insurance benefits.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Arkansas, the state law claims that may be released are all those under Arkansas’ minimum wage and overtime laws and the Arkansas Civil Rights Act (Ark. Code Ann. § 16-123-107). It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that you are providing all required notices upon separation



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Arkansas (such as when the organization separates from its last Arkansas employee), it can formally withdraw its registration to do business in the state by submitting the proper form(s) to the Secretary of State. The forms an organization needs to submit vary depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Withdrawal](#) along with a [Final Franchise Tax Report](#).
- Non-Profit Corporations must file this [Certificate of Withdrawal](#) along with a [Final Franchise Tax Report](#).
- Limited Liability Companies (LLCs) must file this [Application for Cancellation](#) along with a [Final Franchise Tax Report](#).
- Non-Profit Corporations must file this [Certificate of Withdrawal](#) along with a [Final Franchise Tax Report](#).
- Limited Liability Companies (LLCs) must file this [Application for Cancellation](#) along with a [Final Franchise Tax Report](#).

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Arkansas (if applicable)



Final Paycheck Requirements

California state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid immediately.
- Resignation Payment: Employees who resign their employment must be paid within 72 hours of resignation. However, if the employee provides at least 72 hours' notice of their resignation, they must be paid at separation.
- Final Wage Amount: Employees must be paid "all earned and unpaid wages." Premium pay for missed meal and rest periods is considered part of employees' wages.
- Payout of Accrued Vacation: All earned, unused vacation time must be paid upon separation. Cal. lab. code § 227.3.
- Final Paycheck Location: Discharged employees must be paid at the place of discharge. Employees who resign must be paid at the office where they worked. Employees may receive their wages by mail if they so request. Because direct deposit authorizations are immediately terminated upon resignation or discharge, employees must be paid by live check unless they voluntarily authorize the deposit.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay both the unpaid amount plus an additional 30 days' wages at the employee's regular pay rate.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in California must be provided California's unemployment pamphlet DE 2320 required by the California Employment Development Department, notice about the change in employment relationship pursuant to provisions of Section 1089 of the California Unemployment Insurance Code, California's health insurance premium payment program (HIPP) notice (if CRB Workforce has 20 or more employees), notice of Cal-COBRA continuation rights, and notice of all continuation, disability, and conversion coverage options for which the employee is eligible after termination.

Action

- Check that you are providing all required notices upon separation

California WARN Act

General Statement

Covered Employers must provide Affected Employees with 60 days' notice of (1) cessations or substantial cessations of operations at covered establishments, (2) mass layoffs affecting 50+ employees, and (3) relocations of all or substantially all employer operations by 100+ miles.

Action

- Provide WARN notices for mass layoffs



Definitions

An **"Employer"** means any person who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary. Cal. Lab. Code § 1400(b).

A **"Covered Establishment"** is any industrial or commercial facility that employs or has employed 75 or more persons within the past 12 months. Cal. Lab. Code § 1400(a).

- California law uses the term "person" when discussing the threshold number of workers, suggesting that not only traditional employees need to be included in a headcount, but also contractors.
- The 75-person threshold should be based on the highest count at any one time in the past 12 months.
- A covered establishment is a "facility or part thereof," which generally means a single location, though it could include other facilities if the facts indicate strong interrelationships between facilities.

An **"Employee"** is any person employed but the employer for at least six of the 12 months preceding the date on which notice is required. Unlike the federal WARN Act, this includes employees who average fewer than 20 hours per week.

Triggering Events

A "Termination" or "Plant Closing" (as that term is understood in the federal WARN Act) means the (a) cessation or (b) substantial cessation of industrial or commercial operations at a covered establishment. Cal. Lab. Code § 1400(f). There is no threshold number of employees that must be let go for this definition to apply; if all or most of the employees are discharged, it qualifies as a termination or plant closing.

- "Substantial Cessation" is not defined in the statute, though the federal WARN Act defines "Employment Loss" as a "reduction in hours of work of individual employees of more than 50% during each month of any 6-month period." 20 C.F.R. 639.3(f)(1)(iii). It is possible this definition will be used in cases that end up in litigation.

A "Mass Layoff" is a layoff of 50 or more employees during any 30-day period at a covered establishment. Cal. Lab. Code § 1400(d).

A "Layoff" or "Employment Loss" (as that term is understood in the federal WARN Act) means a separation from a position for lack of funds or lack of work. Cal. Lab. Code § 1400(c).

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



Events That Do Not Trigger WARN

A "Relocation" is the removal of all or substantially all of the employer's operations to a different location 100 miles or more away. Cal. Labor Code § 1400(e).

"Sale of Business": While no definition is included in the statute, a California court has stated that, in the case of the sale of a business, a triggering event does not occur when all transferred employees retain their former positions with no change in the terms of their employment. That situation may change if it happens that the successor employer offers employees their same positions with substantially inferior conditions that imply no continuity of employment.

Notice Timing

Notice must be delivered at least 60 days in advance of the termination, mass layoff, or relocation. Cal. Lab. Code § 1401(a)-(b).

- Unlike the federal WARN requirement that the layoff be at least six months, there is no duration requirement under California WARN

Because it is not always possible to know 60 days in advance whether Mass Layoffs or Plant Closings will occur, the Act contemplates the following exceptions to the 60-day requirement. If an exception applies, the Covered Employer is not required to deliver notice 60 days in

advance and must instead deliver notice as soon as is practicable. Employers that reduce the required notice period due to one of these exceptions must include a "complete, detailed statement" of their basis for doing so in the WARN notice.

- **Faltering Company** (not applicable to mass layoffs): Employers are not required to comply with the full 60-day notice requirement if the California Department of Industrial Relations determines that:
 - at the time that notice would have been required, the employer was actively seeking capital or business;
 - capital or business sought, if obtained, would have allowed the employer to avoid or postpone the relocation or plant closing; and
 - employer reasonably and in good faith believed that giving the notice would have prevented the employer from obtaining the needed capital or business.
- **Physical Calamity**: Employers are not required to give notice at all if the otherwise-qualifying WARN event is brought about by a "physical calamity." Cal. Labor Code Section 1401(c). "Physical calamity" is not defined in the statute, but some commentary has suggested that it is more limited than the federal WARN Act's unforeseeable business circumstances exception.
- **Act of War**: Employers are not required to give notice if the otherwise-qualifying California WARN event is necessitated by an "act of war." Cal. Labor Code Section 1401(c).

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



- **Temporary Project:** Employers are not required to give notice to employees who are employed in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary. Cal. Labor Code Section 1400(g)(2).

Notice Content

Notice must be provided to:

- affected employees (excluding seasonal workers and workers who have been employed for less than 6 of the 12 months before the date notice is required);
- the Employment Development Department, Workforce Services Division [this is the federal WARN dislocated worker unit];
- the local workforce investment board;
- the chief elected official of each city government where the WARN event occurs; and
- the chief elected official of each county government where the WARN event occurs.

WARN notice does not need to be provided to union representatives, as the federal WARN Act requires, but it is a best practice with a low burden.

- California WARN notices must include all the same information as is required by the federal WARN Act:
- The name and address of the site where the plant closing or mass layoff will occur;
- The name and telephone number of a company official to contact for further information;
- 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;
- The expected date of the first separation, and the anticipated schedule for making separations;
- The job titles of positions to be affected, and the number of affected employees in each job classification;
- An indication as to whether or not bumping rights exist; and
- The name of each union representing affected employees, and the name and address of the chief elected officer of each union.

Severance Agreements

- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In California, the state law claims that may be released include:

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable
- Ensure claims releases are sufficiently specific



- wrongful termination in violation of public policy (Tameny claims);
 - breach of contract;
 - breach of the implied covenant of good faith and fair dealing;
 - privacy violations;
 - defamation;
 - intentional infliction of emotional distress; and
 - discrimination and harassment claims under [California’s Fair Employment and Housing Act](#).
- California law requires that employers who wish to include both known and unknown claims in a release must include an explicit waiver of California Civil Code [Section 1542](#), and there must be independent evidence that the employee intended to release unknown claims. Many employers choose to include the statutory language: “A general release
 - does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”
- In California, non-disparagement clauses included as part of severance agreements can’t restrict employees from disclosing information about unlawful acts in the workplace, such as harassment or discrimination.
- does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”
- In California, non-disparagement clauses included as part of severance agreements can’t restrict employees from disclosing information about unlawful acts in the workplace, such as harassment or discrimination.
- It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later. Finally, employers are required by [California law](#) to inform employees that they have a right to consult an attorney about any proposed severance agreements and provide them at least five days to do so.
- Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable
- Ensure claims releases are sufficiently specific

Action

- Check that the provisions in severance agreements are enforceable
- Ensure claims releases are sufficiently specific



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in California (such as when the organization separates from its last California employee), it can formally withdraw its registration to do business in that state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Surrender](#) and pay all required state taxes before withdrawing.

Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#) and must pay all required state taxes before withdrawing.

Action

- Report terminated employees

Action

- Withdraw your registration to do business in California (if applicable)

Action

- Withdraw your registration to do business in California (if applicable)

Final Paycheck Requirements

- [Colorado state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid immediately.
- If the employer's accounting unit is not regularly scheduled to be operational at the time of termination, then wages must be paid no later than 6 hours after the start of the employer's accounting unit's next regular workday.
- If the accounting unit is located off the work site, the employer must deliver the paycheck no later than 24 hours after the start of the next regular workday to their choice of the work site, the employer's local office, or the employee's last-known mailing address.
- Resignation Payment: Employees who resign their employment must be paid at least by the next regular payday.
- Final Wage Amount: Employees must be paid "wages or compensation for labor or service earned, vested, determinable, and unpaid at the time of [separation]."
- Payout of Unused Vacation: All earned, unused vacation time must be paid upon separation. [Colo. Rev. Stat. § 8-4-101](#).
- Final Paycheck Location: Employees must be paid at the work site, the employer's local office, or the employee's last-known mailing address if they haven't received their payment by other means within 60 days.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay both the unpaid amount and the greater of (1) an additional 10 days' wages, or (2) 125% of unpaid wages up to \$7,500 plus 50% of unpaid wages that exceeds \$7,500. If the employee can show that failure to pay was willful, the penalty increases by 50%.

Separation Notice

- All employees in Colorado who separate from employment must be provided a notice informing them of the availability of unemployment insurance upon separation. The notice must include: a statement that unemployment insurance benefits are available to unemployed workers who meet the eligibility requirements of Colorado law, contact information to file a claim, information the individual will need to file a claim, contact information to check on the status of a claim after it is filed, the employer's name and address, the employee's name and address, the employee's identification number or the last four numbers of the employee's social security number, the employee's start date, date of last day worked, year-to-date earnings, and wages for the last week the employee worked, and the reason the employee separated from the employer. Colorado provides a [notice form](#) for employers to use in complying with this requirement.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Colorado, the state law claims that may be released are all those under Colorado’s [minimum wage](#) and [overtime](#) laws, the Colorado Equal Pay for Equal Work Act ([C.R.S. §§ 8-5-101 et seq.](#)), Colorado Family Care Act ([C.R.S. § 8-13.3-201](#)), Colorado Pregnant Workers Fairness Act ([C.R.S. § 24-34-402.3](#)), Colorado Anti-Discrimination Act ([C.R.S. §§ 24-34-601 et seq.](#)), and the [Creating a Respectful and Open World for Natural Hair \(CROWN\) Act](#).

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Colorado (such as when the organization separates from its last Colorado employee), it can formally withdraw its registration to do business in that state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a Statement of Foreign Entity Withdrawal. Colorado requires these forms to be filed electronically via the Secretary of State’s online portal. Instructions for doing so can be found [here](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Withdraw registration to do business in Colorado (if applicable)

Action

- Withdraw registration to do business in Colorado (if applicable)



Final Paycheck Requirements

Connecticut state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next business day.
- Resignation Payment: Employees who resign or are laid off must be paid on the next scheduled payday.
- Commission Payment: Commissions owed on or before the termination of a contract must be paid by the later of the date specified in the contract or 30 days after the effective date of termination. Commissions due after the termination date must be paid by the date specified in the contract, but no later than 30 days after the commissions become due.
- Final Wage Amount: Employees must be paid their wages, defined as “compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation.”
- Payout of Unused Vacation: Employers are not required to pay out accrued fringe benefits like paid vacation upon termination unless the employer’s policy or contract requires it.
- Final Paycheck Location: Employees must be paid through regular payment channels or by mail.
 - Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid amount and criminal penalties up to \$5,000 in fines, imprisonment up to 5 years, or both for each offense.

Separation Notice

All employees in Connecticut who separate from employment for any reason must be provided Form UC-61 – Unemployment Separation Packet/Notice and a copy of their termination notice. Employees must also be informed they can submit a written statement disagreeing with the content of their termination notice; this statement must be kept on file at CRB Workforce.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Connecticut, the state law claims that may be released are all those under the Connecticut Family and Medical Leave Act (Conn. Gen. Stat. Ann. §§ 31-51kk et seq.), Connecticut’s free speech law (Conn. Gen. Stat. Ann. § 31-51q), the Connecticut Fair Employment Practices Act (Conn. Gen. Stat. Ann. §§ 46a-60, et seq.), Connecticut’s minimum wage and wage payment laws (Conn. Gen. Stat. Ann. §§ 31-58 to 31-76o), the anti-retaliation provision of Connecticut’s workers’ compensation statute (Conn. Gen. Stat. Ann. 31-290a), and Connecticut’s Equal Pay Law (Conn. Gen. Stat. § 31-75).

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Connecticut (such as when the organization separates from its last Connecticut employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#).

Action

- Report employee termination

Action

Withdraw registration to do business in Connecticut (if applicable)



Final Paycheck Requirements

Delaware state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the later of (i) the next scheduled payday or (ii) three business days after the last day worked.
- Resignation Payment: Employees who resign their employment must be paid on the later of (i) the next scheduled payday or (ii) three business days after the last day worked.
- Final Wage Amount: Employees must be paid their wages, defined as “compensation due to an employee by reason of the employee’s employment, payable in legal tender of the United States or check or bank draft convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted.”
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be provided their final wages either through the regular pay channels or by mail if the employee so requests.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid amount and 10% of the unpaid wages for each business day the failure continues.

Payment will continue to accrue until either payment is rendered or the amount equals the unpaid wages.

Separation Notice

All employers in Delaware are required to provide separated employees with a copy of Delaware’s Form UC-300 – Employer Notification to Employees of the Availability of Unemployment Compensation at the time of separation. (See DE Lab. Code § 19-3317). The state currently does not make the form available on its website and employers must retrieve it from the DE Division of Unemployment Insurance. Delaware also requires employers that provide a group health insurance plan and have fewer than 20 employees to provide this notice to separated employees informing them of their right to continue health insurance coverage under Delaware’s state-level COBRA law within 30 days of separation. Consider attaching these notices to this Separation Agreement.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation



Delaware WARN Act

General Statement

Covered Employers must provide Affected Employees with 60 days' notice of (1) plant closings or mass layoffs affecting (i) 50+ employees comprising 33% of a site's workforce, or (ii) 500+ employees; and (2) relocations causing an employment loss.

Definitions

An "Affected Employee" is one who may reasonably expect to experience an employment loss due to a proposed mass layoff, plant closing, or relocation. 19 Del. C. § 1903(a)(1).

An "Employer" is a private business enterprise that employs at least (1) 100 employees (not including part-time employees) or (2) at least 100 employees that work at least 2,000 hours per week in the aggregate. The law is unclear whether that threshold refers to only the employees in the state or total number of employees. The safest approach is to count employees both in and out of the state.

- A "Part-Time Employee" is an employee who (1) is employed for an average of fewer than 20 hours per week or (2) has been employed for fewer than 6 of the 12 months preceding the date on which notice is required. 19 Del. C. § 1903(a)(7).

An "Employment Loss" is (1) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (2) a mass layoff exceeding 6 months in duration, or (3) a reduction in hours of work of more than 50% during each month of any consecutive 6-month period."

- Employment loss does not include a mass layoff or plant closing due to the relocation or consolidation of the employer's business and, before the layoff or closing, the employer (1) offers to transfer the employee to another site within reasonable commuting distance with no more than a six-month break in employment, or (2) offers to transfer the employee to any other employment site with no more than a six-month break in employment, and the employee accepts within 30 days of the later of the offer or plant closing/mass layoff.

Triggering Events

- "Aggregation": Delaware uses two aggregation time periods to determine whether plant closing or mass layoff thresholds have been met:
- 30-day window (plant closings and mass layoffs): To determine whether aggregate employment losses in any 30-day period meet the thresholds for plant closings or mass layoffs requiring WARN notice, employers should look both forward and backward 30 days from the date of each respective employment loss.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



- 90-day window (plant closings, mass layoffs, and relocation): "An employer must also give notice if the number of employment losses which occur during a 30-day period fails to meet the threshold requirement of a mass layoff or plant closing, but the number of employment losses of 2 or more groups of workers, each of which is less than the minimum number needed to trigger notice, reaches the threshold level during any 90-day period of a mass layoff, plant closing or relocation. Job losses within any 90-day period will count toward WARN Act threshold levels unless the employer demonstrates that the employment losses during the 90-day period are the result of separate and distinct actions and causes." 19 Del. C. § 1907.

A "Mass Layoff" is a reduction in workforce that (1) is not due to a plant closing, and (2) results in an employment loss, at a single employment site, during any 30-day period, for: (i) 50 or more employees if they make up at least 33% of the total workforce at the site (not including part-time employees), or (ii) 500 or more employees (including part-time employees). Both of Delaware's aggregation rules apply to determine whether the threshold has been met.

A "Plant Closing" is the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site during any 30-day period for at least 50 full-time employees. 19 Del. C. § 1903(a)(8). Both of

Delaware's aggregation rules apply to determine whether the threshold has been met.

"Relocations" are the removal of all or substantially all of the industrial or commercial operations of an employer to a different location 50 miles or more away. 19 Del. C. § 1903(a)(9).

- No relocation employment loss occurs if (1) an employer offers to transfer an employee to (i) a different site of employment within a reasonable commuting distance or (ii) to any other site of employment regardless of distance and the employee accepts within 30 days of the offer or of the closing or mass layoff, whichever is later and (2) there is no more than a six-month break in employment. 19 Del. C. § 1903(a)(5)(b).

Events That Do Not Trigger WARN

"Sale of Business": Delaware law does not expressly address the sale of a business, but based on the statute's similarity to the federal WARN Act, it is likely the same exception applies. According to federal WARN, in the case of a sale of business the technical employment termination of employees transferring from the seller-employer to the buyer-employer is not a WARN event and doesn't trigger notice obligations. 20 C.F.R. § 639.6. The seller-employer is responsible for sending any required WARN notices up to the effective date of the sale, at which time the buyer-employer inherits that responsibility.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



"Strike/Lockout": employers are not required to comply with the statute's notice requirements if the mass layoff or plant closing constitutes a strike or lockout not intended to evade the requirements of the statute. An employer does not have to serve written notice when permanently replacing an economic striker (pursuant to the definition set forth in the National Labor Relations Act). 19 Del. C. § 1905(a) (5).

Notice Timing

Employers must provide notice of a mass layoff, plant closing, or relocation at least 60 days before the event takes effect. 19 Del. C. § 1904(a). Even for exceptional cases in which employers are permitted to reduce the required notice period, employers must provide as much notice as practicable and provide a brief statement of the basis for reducing the notice period.

Because it is not always possible to know 90 days in advance whether Mass Layoffs, Plant Closings, or Relocations will occur, the Act contemplates the following exceptions to the notice requirement.

- Act of Terrorism or War: Employers are not required to provide Delaware WARN notice at all if the plant closing, mass layoff, or relocation is brought about by an act of terrorism or war. This term is not defined. 19 Del. C. § 1905(a)(4)(c).
- Faltering Company: Employers are not required to provide the full 60-days' notice of mass layoffs, plant closings, or relocations if, at the time the notice would have been required, (1) the employer was actively seeking capital or business, (2) the capital or business sought would have enabled the employer to avoid or postpone the relocation or termination, and (3) the employer reasonably, and in good faith, believed that giving the notice would have precluded the employer from obtaining the needed capital or business. 19 Del. C. § 1905(a)(1).
- Natural Disaster: Employers are not required to provide the full 60-days' notice of a plant closing, mass layoff, or relocation if it was brought about by a natural disaster, like a flood, earthquake, or drought. This term is not defined. 19 Del. C. § 1905(a)(4).
- Physical Calamity: Employers are not required to provide Delaware WARN notice at all if the plant closing, mass layoff, or relocation was brought about by a physical calamity. The term is not defined. 19 Del. C. § 1905(a)(4)(c).
- Unforeseeable Business Circumstances: Employers are not required to provide the full 60-days' WARN notice if the mass layoff or plant closing is caused by circumstances not reasonably foreseeable at the time notice would have been required. For example, an unanticipated and dramatic major economic downturn, a government-

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



- ordered closing of an employment site occurring without notice, or a strike at a major supplier of the employer. 19 Del. C. § 1905(a) (2).
- A mass layoff of more than six months, which was originally announced as a mass layoff of six months or less will be treated as an employment loss unless (1) the extension beyond six months is caused by business circumstances not reasonably foreseeable at the time of the initial layoff, and (2) notice is provided when it becomes reasonably foreseeable that the extension beyond six months will be required. 19 Del. C. § 1906.

Notice Content

- Covered Employers must provide notice to:
 - Affected employees;
 - May be sent to the employee's last known address by first class or certified mail, hand delivered, or included in the employee's paycheck. 19 Del. C. § 1904(d).
 - Representatives of affected employees;
 - The DE Department of Labor Division of Employment and Training, WARN Act Administrator (this is the federal WARN state dislocated worker unit director); and
 - The DE Workforce Development Board established pursuant to the federal Workforce Innovation Opportunity Act for the locality in which the mass layoff, plant closing, or relocation will occur.
- Notices required under the Delaware WARN Act must meet all federal WARN notice requirements, and must include the following state-specific information:
 - The name, job title, home address, telephone number, and email address of each planned dislocated worker;
 - General information regarding payouts, severance packages, job relocation opportunities, and retirement options that will be offered to dislocated workers; and
 - Whether the employer is self-insured for workers' compensation insurance. 19 Del. C. § 1904(b).

Severance Agreements

- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Delaware, the state law claims that may be released are all those under Delaware's minimum wage and overtime laws, the Delaware Discrimination in Employment Act, and the Handicapped Persons Employment Protections Act.
- It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

- If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).
- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
 - Employee Name
 - Employee Case Identifier
 - Last Known Home Address
 - New Employer Address (if known)
 - Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Delaware (such as when the organization separates from its last Delaware employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Withdrawal](#) and submit any unpaid taxes along with the Certificate.
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#) and submit any unpaid taxes along with the Certificate.

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Delaware (if applicable)

Action

- Withdraw your registration to do business in Delaware (if applicable)



Final Paycheck Requirements

- District of Columbia law requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid on the next business day.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 7 days from resignation, whichever is earlier.
- Final Wage Amount: Employees must be paid their wages, defined as “monetary compensation after lawful deductions, owed by an employer for labor or services rendered, whether the amount is determined on a time, task, piece, commission, or other basis of calculation.” https://scholar.google.com/scholar_case?case=12796212480403894330&q=428+A.2d+816&hl=en&as_sdt=6,45https://scholar.google.com/scholar_case?case=2530997905193526499&q=268+A.2d+860&hl=en&as_sdt=6,45
- Payout of Unused Vacation: Employers must pay out accrued and unused vacation upon separation unless the employee agreed to a policy that clearly denies that payment.
- Final Paycheck Location: The District does not specify where an employee must be provided their final wages, but it is a best practice to provide wages in the usual manner or by mail if requested by the employee.

Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid amount and 10% of the unpaid wages for each business day the failure continues. Payment will continue to accrue until either payment is rendered, or the amount equals the unpaid wages.

Separation Notice

Washington, D.C. requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under D.C.’s state-level COBRA law within 15 days of separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In the District of Columbia, the state law claims that may be

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable



released are all those under the [D.C. Family and Medical Leave Act](#), the [D.C. Parental Leave Act](#), the [D.C. Accrued Sick and Safe Leave Act](#), the [D.C. Universal Paid Leave Amended Act](#), the [D.C. Human Rights Act](#), the [D.C. Tipped Wage Workers Fairness Amendment Act](#), the [D.C. Minimum Wage Act](#), and the [D.C. Displaced Workers Prevention Act](#).

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support

agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in the District of Columbia (such as when the organization separates from its last District of Columbia employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Withdrawal of Foreign Registration Statement](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Report terminated employees

Action

- Withdraw your registration to do business in the District of Columbia (if applicable)



Final Paycheck Requirements

Florida does not regulate how and when final paychecks must be paid. However, it is a best practice to ensure that your departing employees are fully paid their earned wages in a timely manner. Many states require for employers to provide final paychecks on the next regularly scheduled payday. Employers who fail to pay wages to their separated employees can face civil penalties at least equal to the unpaid wages and can even be subject to criminal penalties including jail time. Employers are not required to pay out accrued and unused vacation time unless the employee contract or employer policy provides for it.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Florida, the state law claims that may be released are those under the [Florida Civil Rights Act](#) and Florida's [minimum wage](#) laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#). You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees



Withdraw Registration to do Business

Once an organization stops doing business in Florida (such as when the organization separates from its last Florida employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Withdrawal of Foreign Entity Form](#).

Action

- Withdraw your registration to do business in Florida (if applicable)



Final Paycheck Requirements

Georgia does not regulate how and when final paychecks must be paid. However, it is a best practice to ensure that your departing employees are fully paid their earned wages in a timely manner. Many states require for employers to provide final paychecks on the next regularly scheduled payday. Employers who fail to pay wages to their separated employees can face civil penalties at least equal to the unpaid wages and can even be subject to criminal penalties including jail time. Employers are not required to pay out accrued and unused vacation time unless the employee contract or employer policy provides for it.

Separation Notice

All employees in Georgia who separate from employment for any reason must be provided [Form DOL-800 - Separation Notice](#) on the employee's last day of work, or if not possible, mailed to their last known address within three days.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Georgia, the state law claims that may be released are those under the [Georgia Fair Employment Practices Act](#), [Georgia Equal Employment for Persons with Disabilities Code](#), [Georgia Equal Pay for Equal Work Act](#), [Georgia Family Care Act](#), and Georgia's [minimum wage laws](#).

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Report terminated employees



You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Georgia (such as when the organization separates from its last Georgia employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Certificate of Authority Withdrawal](#).

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Georgia (if applicable)



Final Paycheck Requirements

Hawaii state law requires that employees who separate from their employer be paid according to the following schedule:

- **Termination Payment:** Employees who are terminated must be paid immediately. If something reasonably prevents immediate payment, then they must be paid on the next working day.
- **Resignation Payment:** Employees who resign their employment must be paid on the next scheduled payday or immediately if they provided at least one pay period's notice of their resignation.
- **Final Wage Amount:** Employees must be paid their wages, defined as "compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation" as determined by the director whether that amount includes board, lodging, or other facilities.
- **Payout of Unused Vacation:** Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- **Final Paycheck Location:** Employees must be provided their final wages either through the regular pay channels or by mail if the employee so requests.
- **Failure to Pay Wages Penalties:** At the determination of the Wage Standards Division, employers who fail to pay wages may be subjected to a lawsuit to recover wages, attorney's fees, costs, and other reasonable damages.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Hawaii, the state law claims that may be released are those under Hawaii's laws prohibiting discrimination in employment ([H.R.S. Chapter 378](#)), Hawaii's family leave laws ([H.R.S Chapter 398](#)), and Hawaii's wage and hour laws ([H.R.S. Chapter 387](#)).

In Hawaii, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing sexual harassment or sexual assault occurring in the workplace.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable



Hawaii WARN Act

General Statement

Hawaii employers that plan to close, partially close, divest, or relocate operations at a covered establishment due to a transaction must (1) provide 60 days’ notice and (2) make up the difference between employees’ wages and unemployment benefits for four weeks.

Definitions

An “Affected Employee” is an individual working for an employer who has a reasonable expectation of continuing employment with that employer at the time of a closing, partial closing, or relocation (including part-time employees). Haw. Admin. Rules § 12-506-2.

Part-time employees are not defined.

A “Covered Establishment” is a business entity that (i) employs (or has employed

- at any time in the preceding 12 months) 50 or more employees in Hawaii; and
- (ii) is party to a sale, transfer, merger, or other business takeover or transaction. Haw. Rev. Stat. § 394B-2; Haw. Admin. Rules § 12-506-3(a).

An “Employer” is a private individual or entity that owns, operates, or has a controlling interest in a covered establishment. Haw. Rev. Stat. § 394B-2.

Triggering Events

A “Closing” is the permanent shutdown of all operations at a covered establishment that (i) is due to a sale, transfer, merger, or other business takeover or transaction, and (ii) causes or may cause the employer to lay off or terminate employees at the covered establishment. Haw. Rev. Stat. § 394B-2; Haw. Admin. Rules § 12-506-4.

Shutdowns due to other factors are not considered closings for purposes of Hawaii WARN. Haw. Admin. Rules § 12-506-4.

A “Divestiture” is the transfer of any covered establishment from one employer to another that (i) is due to a sale, transfer, merger, or other business takeover or transaction; and (ii) causes the covered establishment’s employees to be laid off or terminated. Haw. Rev. Stat. § 394B-2.

A “Partial Closing” is the permanent shutdown of a portion of an employer’s operations that (i) is due to a sale, transfer, merger, or other business takeover or transaction, and (ii) causes or may cause the employer to lay off or terminate a portion of the employees at a covered establishment. Haw. Rev. Stat. § 394B-2; Haw. Admin. Rules § 12-506-5. Partial business shutdowns due to other factors are not considered partial closings for purposes of Hawaii WARN. Haw. Admin. Rules § 12-506-5.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



A “Relocation” is the removal of all or substantially all the employer’s operations at a covered establishment to somewhere outside Hawaii due to a sale, transfer, merger, or other business transaction. Haw. Rev. Stat. § 394B-2; Haw. Admin. Rules § 12-506-6(b). Relocations due to other factors are not considered partial closings for purposes of Hawaii WARN. Haw. Admin. Rules § 12-506-5.

Events That Do Not Trigger WARN

“Sale of a Business” Employers actively seeking a buyer for a sale, transfer, or merger of a covered establishment are not required to provide notice until they have entered into a binding agreement that will result in a divestiture. Haw. Rev. Stat. § 394B-9(c).

Notice Timing

Written notice must be provided to each affected employee and the Director of Labor and Industrial Relations at least 60 days before the closing, partial closing, relocation, or divestiture occurs. Additionally, employers must pay each affected employee a dislocated worker allowance for a total of four weeks. A “Dislocated Worker Allowance” is the difference between the employee’s previous average weekly wages and the weekly unemployment benefits they receive. Haw. Rev. Stat. §§ 394B-10(a)-(c).

To be eligible for the allowance, affected employees must (1) be laid off or terminated as a result of a closing, partial closing, relocation or divestiture, (2) apply and be found eligible for unemployment compensation benefits for a particular week, (3) not receive any supplemental unemployment benefits as a result of a CBA, and (4) file a claim for the dislocated worker allowance in accordance with procedures established by the employer. Haw. Rev. Stat. § 394B-10(a); Haw. Admin. Rules § 12-506-8(a).

Notice Content

Hawaii WARN requires employers to provide written notice to each affected employee and the Director of Labor and Industrial Relations. Haw. Rev. Stat. § 394B-9.

The written notice to affected employees must include:

- the date of the proposed closing, partial closing, relocation, or divestiture, and
- information that the employee may be eligible for a dislocated worker allowance, upon separation. Haw. Admin. Rules § 12-506-7(b).

The written notice to the Director of Labor and Industrial Relations must include the:

- name and address of the employer;
- employer’s contact person;
- date of the closing, partial closing, relocation, or divestiture;
- number of employees at the covered establishment; and
- approximate number of employees to be laid off or terminated. Haw. Admin. Rules § 12-506-7(c).

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Hawaii (such as when the organization separates from its last Hawaii employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#) and submit any unpaid taxes along with the Certificate.
- Limited Liability Companies (LLCs) must file this [Application for Certificate of Cancellation](#) and submit any unpaid taxes along with the Certificate.

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Hawaii (if applicable)

Action

- Withdraw your registration to do business in Hawaii (if applicable)



Final Paycheck Requirements

- [Idaho state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 10 business days, whichever is earlier.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 10 business days, whichever is earlier. Employees who request earlier payment in writing must be paid within 48 hours of the employer's receipt of the request.
- Final Wage Amount: Employees must be paid their wages, defined as "any compensation owed to a current employee, no matter how it is determined."
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be provided their final wages at the usual place of payment.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and an additional penalty up to \$750.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Idaho, the state law claims that may be released are those under the [Idaho Human Rights Act](#) and Idaho's [minimum wage](#) laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

Action

- Report terminated employees



You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Idaho (such as when the organization separates from its last Idaho employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Statement of Withdrawal](#).

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Idaho (if applicable)



Final Paycheck Requirements

Illinois state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday at the latest.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday at the latest.
- Commission Payment: Commissions due at the time of contract termination must be paid within 13 days of termination. Commissions that become due after contract termination must be paid within 13 days of the date they become due.
- Final Wage Amount: Final compensation must include wages, commissions, and earned bonuses.
- Payout of Unused Vacation: Employees must be paid for their earned and unused vacation time and holiday pay. If the only form of paid leave an employer provides is under Illinois' Paid Leave for Any Reason law, or if Paid Leave for Any Reason hours are kept in a leave bank separate from any other leave, then the employer is not required to pay out leave under the Paid Leave for Any Reason law. But if an employer combines another form of paid leave and leave under the Paid Leave for Any Reason law into one leave bank, then any unused leave must be paid out. For more information, see § 200.460 of the paid leave Final Rules. In Chicago, if an

- employee has used less than 40 hours of leave during the 12 months prior, they must be paid the difference between 40 hours and the amount of leave they used in the last 12 months upon separation.
- Final Paycheck Location: Employees must be provided their final wages at the usual place of payment or by mail if they request it in writing.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages, administrative fees up to \$1000, penalties to the Department of Labor up to 20% of the amount owed, and additional wages to the employee of 1% of the amount owed per calendar day.

Separation Notice

- All employees in Illinois who separate from employment for seven or more days must be provided Form CLI111L - What Every Worker Should Know About Unemployment Insurance on the employee's last day of work, or if not possible, mailed to their last known address within five days. Illinois also requires all employers that provide a group health insurance plan to notify separated employees of their right to continue coverage under Illinois' state-level COBRA law within 10 days of separation.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation



Severance Agreements

- Employers may include non-compete provisions in severance agreements, but they are unenforceable against employees who were terminated without cause.
- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Illinois, the state law claims that may be released are those under the [Illinois Employee Credit Privacy Act](#), [Illinois Human Rights Act](#), [Job Opportunities for Qualified Applicants Act](#), [Medical Examination of Employees Act](#), [Right to Privacy in the Workplace Act](#), [Illinois Biometric Information Privacy Act](#), [Illinois Freedom to Work Act](#), [Illinois Equal Pay Act](#), [Illinois Equal Wage Act](#), [Illinois Wage Payment and Collection Act](#), [Illinois Secure Choice Savings Program Act](#), [Illinois Service Member Employment and Reemployment Rights Act](#), [Victims' Economic Security and Safety Act](#), [Employee Blood Donation Leave Act](#), [Volunteer Emergency Worker Job Protection Act](#), [Child Bereavement Leave Act](#), [One Day Rest in Seven Act](#), [Illinois School Visitation Rights Act](#), [Illinois Worker Adjustment and Retraining Notification Act](#), and the [Illinois Personnel Records Review Act](#).
- Further, under the [Illinois Workplace Transparency Act](#), employers must provide 21 days for employees of any age to consider signing a severance agreement and a seven-day revocation period for them to rescind their signature.

Illinois WARN Act

General Statement

- Illinois employers with 75 or more employees must provide at least 60 days' notice of a (1) plant closing affecting 50+ employees, (2) mass layoff of (A) 25+ employees comprising 33% of workforce or (B) 250 employees, or (3) relocation.
- Whenever possible, the Illinois WARN Act should be interpreted consistently with federal WARN. 820 ILCS 65/55.

Definitions

- An "Affected Employee" is someone who may reasonably be expected to experience an employment loss due to a plant closing or mass layoff. 820 ILCS 65/5(a).

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Provide WARN notices for mass layoffs



- Under Illinois’ WARN Act, an “Employer” is any private business enterprise (not including charitable organizations or tax-exempt institutions) that employs: (1) 75 or more employees (not including part-time employees); or (2) 75 or more employees who work at least 4,000 hours per week in the aggregate (not including overtime). 820 ILCS 65/5(c). The law is unclear whether those thresholds refer to only the employees in the state or total number of employees. The safest approach is to count employees both in and out of the state.
- Independent contractors and subsidiaries that are independent from the parent corporation are considered separate employers. 56 Ill. Adm. Code 230.110.
- “Part-Time Employees” work fewer than 20 hours per week, on average, or have been employed for fewer than six of the 12 months before notice is required. 820 ILCS 65/5(e); 56 Ill. Adm. Code 230.110.
-
- “Employment Loss” means (1) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (2) a layoff over six months long, or (3) a reduction in work hours by more than half during each month of any six-month period.
- An employee is not considered to have experienced an employment loss if the plant closing or layoff is due to the relocation or consolidation of the employer’s business and, before the

layoff or closing, the employer (1) offers to transfer the employee to another site within reasonable commuting distance with no more than a six-month break in employment, or (2) offers to transfer the employee to any other employment site with no more than a six-month break in employment, and the employee accepts within 30 days of the later of the offer or of the closing or layoff. 820 ILCS 65/5(b); 56 Ill. Adm. Code 230.240(a).

- A “Reasonable Commuting Distance” is, generally, a distance under 50 miles, unless the employee was already voluntarily commuting further than that or agrees, in writing, to travel that distance. The IL DOL may find a distance of less than 50 miles is not reasonable based on industry practice or local conditions. 56 Ill. Adm. Code 230.240(b).

Illinois defines a “Single Site of Employment” as:

- “A single location or a group of contiguous locations. Groups of structures that form a campus or industrial park, or separate facilities across the street from one another, may be considered a single site of employment.
- Several single sites of employment within a single building may exist if separate employers conduct activities within such a building. For example, an office building housing 50 different

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



- Non-contiguous sites in the same geographic area that do not share the same staff or operational purpose should not be considered a single site.
- Contiguous buildings owned by the same employer that have separate management, produce different products and have separate workforces are considered separate single sites of employment.
- A single site of employment for workers whose primary duties require travel from point to point, who are outstationed or whose primary duties involve work outside any of the employer's regular employment sites, will be the site that workers are assigned to as home base or the site from which they report or receive assignments.
- A single site of employment may apply in truly unusual organizational situations where the above-noted criteria do not reasonably apply.” 56 Ill. Adm. Code 230.120.

Triggering Events

- **“Aggregation”**: Illinois uses two aggregation time periods to determine whether plant closing or mass layoff thresholds have been met:
- **30-day window**: To determine whether aggregate employment losses in any 30-day period meet the thresholds for plant closings or mass layoffs requiring WARN notice, employers should look both forward and backward 30 days from the

Action

- Provide WARN notices for mass layoffs



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- Contiguous buildings owned by the same employer that have separate management, produce different products and have separate workforces are considered separate single sites of employment.
- A single site of employment for workers whose primary duties require travel from point to point, who are outstationed or whose primary duties involve work outside any of the employer's regular employment sites, will be the site that workers are assigned to as home base or the site from which they report or receive assignments.
- A single site of employment may apply in truly unusual organizational situations where the above-noted criteria do not reasonably apply.” 56 Ill. Adm. Code 230.120.

Triggering Events

- **“Aggregation”:** Illinois uses two aggregation time periods to determine whether plant closing or mass layoff thresholds have been met:
- **30-day window:** To determine whether aggregate employment losses in any 30-day period meet the thresholds for plant closings or mass layoffs requiring WARN notice, employers should look both forward and backward 30 days from the
 - date of each respective employment loss. 820 ILCS 65/5(d), (f).
 -
- **90-day window:** To determine whether prior and/or future employment losses—each of which separately is not of sufficient size to be a plant closing or a mass layoff—will, in aggregate for any 90-day period, meet the thresholds for plant closings or mass layoffs requiring WARN notice, employers should look both forward and backward 90 days from the date of each respective employment loss. Employment losses previously counted under the 30-day look ahead/look behind period are not aggregated/counted with employment losses during the 90-day look ahead/look behind period. Additionally, employment losses during the 90-day window are not aggregated/counted if an employer can prove they are the result of separate and distinct actions and causes. 820 ILCS 65/5.
- A “Mass Layoff” is a reduction in force which is not due to a plant closing and results in employment loss at a single site of employment during any 30-day period for (1) at least 25 employees (excluding part-time) who make up at least 33% of the employees at that site, or (2) at least 250 employees (excluding part-time), regardless of percentage. Both aggregation methods apply when determining the number of affected employees for a mass layoff.
- A “Plant Closing” means a permanent or temporary shutdown of a single site of employment, or one or more of its

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



facilities or operating units, if the shutdown results in an employment loss for at least 50 employees (not including part-time employees) at the site during any 30-day period. 820 ILCS 65/5(f). Both aggregation methods apply when determining the number of affected employees for a plant closing.

Illinois law requires that WARN notice be provided before any “Relocation” but does not define that term. Aggregation methods do not apply to determine the number of affected employees for relocation. The statute suggests that notice is only required when a relocation causes an employment loss. See above for the definition of “Employment Loss.”

Events That Do Not Trigger WARN

Sale of Business: Illinois law does not expressly address the sale of a business, but based on the statute’s similarity to the federal WARN Act, and the fact that Illinois WARN should be interpreted consistent with federal WARN, it is likely the same exception applies. According to federal WARN, in the case of a sale of business the technical employment termination of employees transferring from the seller-employer to the buyer-employer is not a WARN event and doesn’t trigger notice obligations. 20 C.F.R. § 639.6. The seller-employer is responsible for sending any required WARN notices up to the effective date of the sale, at which time the buyer-employer inherits that responsibility.

Strike/Lockout: Employers are not required to comply with the statute’s notice requirements if the mass layoff or plant closing constitutes a strike or lockout not intended to evade the requirements of the statute. An employer does not have to serve written notice when permanently replacing an economic striker (pursuant to the definition set forth in the National Labor Relations Act). 820 ILCS 65/15(c)(2).

Notice Timing

Covered employers must provide at least 60 days’ notice before a plant closing, mass layoff, relocation, or employment loss. 820 ILCS 65/10(a); 56 Ill. Adm. Code 230.220(a).

Because it is not always possible to know 60 days in advance whether WARN notice will be required, the law contemplates the following exceptions to the 60-day requirement. If an exception applies, the covered employer is not required to deliver notice 60 days in advance and must instead deliver notice “as soon as is practicable.” Employers that reduce the required notice period due to one of these exceptions must provide a brief statement of the basis for doing so in the WARN notice.

- **Act of Terrorism or War:** Employers are not required to follow Illinois WARN notice requirements if the mass layoff, relocation, or employment loss is caused by an act of terrorism or war.

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- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



- **Faltering Company:** Employers are not required to provide the full 60-days' notice of plant closings (not mass layoffs or relocations) if, at the time the notice would have been required, (1) the employer was actively seeking capital or business, (2) the capital or business sought would have enabled the employer to avoid or postpone the relocation or termination, and (3) the employer reasonably, and in good faith, believed that giving the notice would have precluded them from obtaining the needed capital or business. 820 ILCS 65/15.
- **Physical Calamity:** Employers are not required to follow Illinois WARN notice requirements if the mass layoff, relocation, or employment loss is caused by a physical calamity. Illinois doesn't define "physical calamity" but the statutes suggest the IL DOL must come to a positive determination for the exception to apply.
- **Temporary Project:** Employers are not required to comply with the notice requirement if the plant closing is of a temporary facility or the plant closing or mass layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or project or undertaking. 820 ILCS 65/15(c)(1).

Unforeseeable Business Circumstances:

- **Plant Closings:** Employers don't need to comply with Illinois WARN notice requirements for plant closings if the IL DOL "determines the need for a notice was not reasonably foreseeable at the time the notice would have been required." 820 ILCS 65/15(a)(2). To do this, employers must provide the IL DOL with (1) documents showing the need for notice was not reasonably foreseeable and (2) an affidavit verifying the documents. 820 ILCS 65/15(b).
- **Mass Layoff Extension:** A layoff originally announced to be six months or less but which extends past that is considered an employment loss under WARN unless: (1) the extension is caused by business circumstances not reasonably foreseeable at the time of the initial layoff; and (2) notice is provided when the extension beyond six months becomes reasonably foreseeable. 820 ILCS 65/20.
- This exception does not apply to permanent employment terminations or initial layoffs; only layoff extensions.

Notice Content

- Covered Employers must provide notices to (1) affected employees, (2) representatives of affected employees, (3) the Department of Commerce and Economic Opportunity (this is the state dislocated worker unit director), (4) The

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- Provide WARN notices for mass layoffs

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chief elected official of each municipal government, (5) The chief elected official of each county government, and (6) The Illinois Department of Labor at its Springfield office (contact information below):

Jane Flanagan
Director
Illinois Department of Labor
524 S. Second Street, Suite 400
Springfield, IL 62701
(217) 785-4420
(217) 782-0596 (fax)

Employers receiving state or local economic incentives for doing business in the state must also provide notice to the Governor, Speaker, and Minority Leader of the Illinois House of Representatives; the President and Minority Leader of the Senate; and the Mayor of each Illinois municipality where they have locations.

Notices to Affected Employees must include the following:

- A statement as to whether the planned action is expected to be permanent or temporary and whether the entire plant is to be closed;
- The expected date the plant closing or mass layoff will commence and the expected date when the individual employee will be separated;
- An indication as to whether bumping rights exist; and
- The name and telephone number of a company official to contact for further information. 56 Ill. Adm. Code 230.230(a).

Notices to Representatives of Affected Employees must contain:

- The name and address of the employment site where the plant closing or mass layoff will occur and the name and phone number of a company official to contact for further information;
- A statement as to whether the planned action is expected to be permanent or temporary and whether the entire plant is to be closed;
- The expected date of the first separation and the anticipated separation schedule; and
- The job titles of affected positions and the names of workers currently holding them. 56 Ill. Adm. Code 230.230(b)

- Notices to (1) the Department of Commerce and Economic Opportunity, (2) the Illinois Department of Labor and (3) the Chief Elected Official of each municipal and county government where the mass layoff or plant closing occurs should include:
- The name and address of the employment site where the plant closing or mass layoff will occur and the name and phone number of a company official to contact for further information;
- A statement as to whether the planned action is expected to be permanent or temporary and whether the entire plant is to be closed;
- The expected date of the first separation and the anticipated separation schedule;

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- The job titles of affected positions and the number of affected employees in each job classification;
- An indication as to whether bumping rights exist; and
- The name of each union representing affected employees and the name and address of the chief elected officer of each union. 56 Ill. Adm. Code 230.230(c).

Report Employee Termination

- If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).
- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
 - Employee Name
 - Employee Case Identifier
 - Last Known Home Address
 - New Employer Address (if known)
 - Date of Separation

Withdraw Registration to do Business

- Once an organization stops doing business in Illinois (such as when the organization separates from its last Illinois employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.
- For-Profit Corporations must file this [Application for Withdrawal and Final Report](#).
- Non-Profit Corporations must file this [Application for Withdrawal and Final Report](#).
- Limited Liability Companies (LLCs) must file this [Application for Withdrawal](#).

Action

- Provide WARN notices for mass layoffs

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Illinois (if applicable)



Final Paycheck Requirements

Indiana state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday. If the employer does not know where to remit payment, they will have until 10 days after the time the employee makes a demand.
- Final Wage Amount: Employees must be paid “all wages earned” upon separation.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Indiana does not specify where final payments must be made but it is a best practice to provide payment in the usual manner.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and employee costs and attorney’s fees if the matter is brought to court. Additionally, the court may order payment of an additional twice the amount due if it determines the employer acted in bad faith.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employers in Indiana are required to notify separated employees of the availability of unemployment insurance at the time of separation. Indiana’s Department of Workforce Development has released the following approved language for employers to use in complying with this requirement:

“Unemployment Insurance (UI) benefits are available to workers who are unemployed and who meet the requirements of state UI eligibility laws. You may file a UI claim in the first week that employment stops or work hours are reduced.

For assistance or more information about filing a UI claim or questions about the status of your UI claim once filed, visit www.Unemployment.IN.gov. You will need to provide the state UI agency with the following information in order for the state to process your claim:

- A valid email account – your email address will become your Uplink Username.
- Driver’s license or valid ID, address, Social Security number, date of birth and phone number.
- Last employer’s name, mailing address, phone number, dates of employment and reason you are unemployed.
- Bank routing number and account number if choosing direct deposit as your payment option (NOTE: Key2Benefits prepaid MasterCard® is also available).”

Action

- Check that you are providing all required notices upon separation



Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Indiana, the state law claims that may be released are those under the [Indiana Civil Rights Law](#), [Indiana Wage Payment Statute](#), [Indiana Wage Claims Statute](#), [Indiana Minimum Wage Law](#), and Indiana's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Indiana (such as when the organization separates from its last Indiana employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Statement of Withdrawal](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Indiana (if applicable)



Final Paycheck Requirements

Iowa state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday. Employers have an additional 30 days to pay the difference between commissions credited and those actually earned.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday. Employers have an additional 30 days to pay the difference between commissions credited and those actually earned.
- Final Wage Amount: Employees must be paid their earned wages, which includes, among other things, payment for their services, their earned sick pay, payments made to the employee for benefits, and expenses incurred under a health benefit plan.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be provided their final wages at their normal place of employment or some other mutually agreed upon location.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages, employee damages, court costs, and attorney's fees, if the employee is forced to recover their wages in court.

Separation Notice

All employers in Iowa are required to notify separated employees of the availability of Unemployment Compensation at the time of separation. The Iowa Department of Workforce Development provides a [sample notice](#) for employers to use in complying with this requirement. Iowa also requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Iowa's state-level COBRA law within 10 days of separation.

Iowa WARN Act

General Statement

Iowa employers must provide at least 30 days' notice of a mass layoff or plant closing causing employment losses for 25 or more employees.

Definitions

An "Employee" is a worker who may reasonably expect to experience an employment loss as a consequence of a proposed business closing or mass layoff. Iowa Code § 84C.2(4).

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Provide WARN notices for mass layoffs



- "Part-Time Employees" are those who (unless otherwise agreed-to in a CBA) are employed for an average of fewer than 20 hours per week, or who have been employed for fewer than six of the 12 months preceding the date on which notice is required, regardless of hours worked. Iowa Code § 84C.2(8).

An "Employer" is an entity employing 25 or more employees (excluding part-time). The law is unclear whether that threshold refers to only the employees in the state or total number of employees. The safest approach is to count employees both in and out of the state. Iowa Code § 84C.2(5).

An "Employment Loss" is (1) an employment termination, other than discharge for cause, voluntary separation, or retirement, (2) a layoff exceeding six months, or (3) a reduction in an employee's work hours by more than half during each month of a six-month period. Iowa Code § 84C.2(6).

- Employment loss does not include a mass layoff or business closing due to the relocation or consolidation of the employer's business and, before the layoff or closing, the employer offers to transfer the employee to another site within reasonable commuting distance with no more than a six-month break in employment.
- "Part-Time Employees" are those who (unless otherwise agreed-to in a CBA) are employed for an average of fewer than 20 hours per week, or who have been employed for fewer than six of the 12 months preceding the date on which notice is required, regardless of hours worked. Iowa Code § 84C.2(8).

An "Employer" is an entity employing 25 or more employees (excluding part-time). The law is unclear whether that threshold refers to only the employees in the state or total number of employees. The safest approach is to count employees both in and out of the state. Iowa Code § 84C.2(5).

An "Employment Loss" is (1) an employment termination, other than discharge for cause, voluntary separation, or retirement, (2) a layoff exceeding six months, or (3) a reduction in an employee's work hours by more than half during each month of a six-month period. Iowa Code § 84C.2(6).

- Employment loss does not include a mass layoff or business closing due to the relocation or consolidation of the employer's business and, before the layoff or closing, the employer offers to transfer the employee to another site within reasonable commuting distance with no more than a six-month break in employment.
- "Reasonable Commuting Distance" is not defined, but it is likely to be interpreted in line with federal WARN under 20 C.F.R. § 639.5(b)(3).

A **"Single Site of Employment"** refers to a single location or group of contiguous locations (like a campus or business park).

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



Triggering Events

- "Aggregation": Iowa uses two aggregation time periods to determine whether business closing or mass layoff thresholds have been met:
- 30-day window: To determine whether aggregate employment losses in any 30-day period meet the thresholds for business closings or mass layoffs requiring WARN notice, employers should look both forward and backward 30 days from the date of each respective employment loss. Iowa Code § 84C.4(2)(a).
- 90-day window: To determine whether prior and/or future employment losses—each of which separately is not of sufficient size to be a business closing or a mass layoff—will, in aggregate for any 90-day period, meet the thresholds for business closings or mass layoffs requiring WARN notice, employers should look both forward and backward 90 days from the date of each respective employment loss. Employment losses previously counted under the 30-day look ahead/look behind period are not aggregated/counted with employment losses during the 90-day look ahead/look behind period. Additionally, employment losses during the 90-day window are not aggregated/counted if an employer can prove they are the result of separate and distinct actions and causes. Iowa Code § 84C.4(2)(b).

A "Business Closing" is the permanent or temporary shutdown of a single site of employment (or at least one facility at a single site) that will result in employment loss for 25 or more employees (excluding part-time). Both aggregation methods apply when determining the number of affected employees for a business closing.

A "Mass Layoff" is a reduction in force that results in an employment loss, at a single site of employment during any 30-day period, for 25 or more employees (excluding part-time). Iowa Code § 84C.2(7). Both aggregation methods apply when determining the number of affected employees for a mass layoff.

Events That Do Not Trigger WARN

Sale of Business: Iowa law does not expressly address the sale of a business, and it is not clear whether an exception for the sale of a business was contemplated in Iowa WARN. Still, the seller-employer is responsible for sending any required WARN notices up to the effective date of the sale, at which time the buyer-employer inherits that responsibility. Iowa Code § 84C.3(1)(c).

Strike/Lockout: Employers are not required to comply with the statute's notice requirements if the mass layoff or business closing constitutes a strike or lockout not intended to evade the requirements of the statute. An employer does not have to serve written notice when permanently replacing an economic striker (pursuant to the definition set forth in the National Labor Relations Act). Iowa Code § 84C.4(1).

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



Notice Timing

Employers must provide at least 30 days' notice before a business closing or mass layoff, unless otherwise designated by a CBA. Iowa Code § 84C.3(1)(a). Additional notice is required if the date or date schedule of a planned business closing or mass layoff is extended past the date announced in the original notice. Iowa Code § 84C.4(3)(a)-(b).

- If the postponement is for more than 30 days, the new notice must be treated as a new notice under Iowa Code § 84C.3.
- If the postponement is for less than 30 days, the new notice must be provided to all affected employees as soon as possible, and must include (1) reference to the prior notice, (2) the date to which the planned action is postponed, and (3) the reasons for the postponement.

Because it is not always possible to know 30 days in advance whether business closings or mass layoffs will occur, Iowa law contemplates the following exceptions to the notice requirement:

- **Faltering Company:** Employers are not required to provide the full 30-days' notice of business closings (not mass layoffs) if, at the time the notice would have been required:
 - the employer was actively seeking capital or business and identifies specific actions taken to obtain them;

as soon as reasonably practicable, the employer provides notice containing

- the opportunity to obtain the financing or business was realistic;
- the capital or business sought would have enabled the employer to avoid or postpone the relocation or termination; and
- the employer reasonably, and in good faith, believed that giving the notice would have precluded them from obtaining the needed capital or business. Iowa Code § 84C.4(4).
- **Natural Disaster:** Employers are not required to provide the full 30-days' notice of a business closing or mass layoff if:
 - A natural disaster (e.g., floods, droughts, earthquakes) occurred at the time notice would have been required;
 - The employer provides the required notice containing (among other requirements under Iowa Code § 84C.3) an explanation for reducing the notice period; and
 - The employer demonstrates that the business closing or mass layoff was a direct result of the natural disaster. Iowa Code § 84C.4(6).

Unforeseeable Business Circumstances:

Business Closings and Mass Layoffs: Employers don't need to comply with notice requirements for business closings or mass layoffs if: (1) business circumstances occurred that were not

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



reasonably foreseeable at the time notice would have been required and (2) as soon as reasonably practicable, the employer provides the notice and a statement explaining the reduction of the notice period. See Iowa Code § 84C.4(5)(a)-(d).

- **Mass Layoff Extension:** A layoff originally announced to be six months or less but which extends past that is considered an employment loss under WARN unless: (1) the extension is caused by business circumstances not reasonably foreseeable at the time of the initial layoff; and (2) notice is provided when the extension beyond six months becomes reasonably foreseeable. 820 ILCS 65/20.
- This exception does not apply to permanent employment terminations or initial layoffs; only layoff extensions.
- **Wages in lieu of notice:** The 30-day notice requirement may be reduced by the number of days for which severance payments or wages in lieu of notice are paid by the employer to the employee for working days occurring during the notice period. The payment must be at least the amount equivalent to the regular pay the employee would earn for working days occurring during the notice period. Iowa Code § 84C.4(7).

Notice Content

Employers must provide notices to (1) affected employees or their representatives and (2) the Iowa Department of Workforce Development in a reasonable method of

delivery designed to ensure delivery at least 30 days before the planned action. Notice may also be provided directly to employees as insertions in pay envelopes. Iowa Code § 84C.3(1)(a); 84C.2(3).

Required Iowa notices must be made in writing and include:

- The name and address of the employment site where the business closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information.
- A statement as to whether the planned action is expected to be permanent or temporary and, if the entire business is to be closed, a statement to that effect.
- The expected date of the first employment loss and the anticipated schedule for employment losses.
- The job titles of affected positions and the names of the employees currently holding them. The notice to the department must also include the addresses of the affected employees. Iowa Code § 84C.3(2)(a).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Iowa, the state law

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



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Notice Content

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- The expected date of the first employment loss and the anticipated schedule for employment losses.
- The job titles of affected positions and the names of the employees currently holding them. The notice to the department must also include the addresses of the affected employees. Iowa Code § 84C.3(2)(a).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Iowa, the state law claims that may be released are those under the [Iowa Civil Rights Act](#), Iowa's leave laws, and Iowa's [minimum wage](#) and overtime laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#). You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Iowa (such as when the organization separates from its last Iowa employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

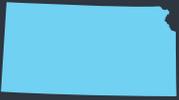
- For-Profit Corporations must file this [Statement of Withdrawal](#).
- Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#).

Action

- Report employee termination

Action

- Withdraw your registration to do business in Iowa (if applicable)



Final Paycheck Requirements

Kansas state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday. Commissions owed must be paid no later than 30 days after the last day of the contractual relationship.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday. Commissions owed must be paid no later than 30 days after the last day of the contractual relationship.
- Final Wage Amount: Employees must be paid all their earned wages.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be provided their final wages through regular pay channels or by mail if requested by the employee.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and 1% of the unpaid wages for each business day after wages are owed, up to an amount equal to the original unpaid wages.

Separation Notice

Kansas requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Kansas' state-level COBRA law within a reasonable time of their separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Kansas, the state law claims that may be released are those under the Kansas Act Against Discrimination (K.S.A. § 44-1001, et seq.), Kansas Age Discrimination in Employment Act (K.S.A. § 44-1111, et seq.), Kansas' leave laws, and Kansas' minimum wage and overtime laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

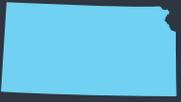
- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Kansas (such as when the organization separates from its last Kansas employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State. For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Certificate of Cancellation of Registration](#).

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Kansas (if applicable)



Final Paycheck Requirements

Kentucky state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 14 days, whichever is later.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 14 days, whichever is later.
- Final Wage Amount: Employees must be paid “all wages or salary earned by him.”
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Kentucky does not specify where final wages must be paid but it is a best practice to provide wages through the regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and civil penalties up to \$1,000 for each offense.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Kentucky, the state law claims that may be released are those under the Kentucky Civil Rights Act, Kentucky Equal Opportunities Act, Kentucky's equal pay law (K.R.S. § 337.423), Kentucky's leave laws, and Kentucky's minimum wage and overtime law.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here. You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Kentucky (such as when the organization separates from its last Kentucky employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a Certificate of Withdrawal.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination

Action

- Withdraw your registration to do business in Kentucky (if applicable)



Final Paycheck Requirements

Louisiana state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 15 days, whichever is earlier.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 15 days, whichever is earlier.
- Final Wage Amount: Employees must be paid “the amount then due under the terms of employment.” Commissions, incentive pay, and bonuses are considered an amount due if, at the time of separation, the compensation has been "earned and not modified in accordance with a written policy addressing the commission, incentive pay or bonus."
- Payout of Unused Vacation: Unless a contract or policy expressly states that vacation time is only provided as a gratuity, and not earned wages, it must be paid to the employee upon separation.
- Final Paycheck Location: Employees must be paid “at the place and in the manner which has been customary during the employment” or by mail.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to 90-days’ wages at the employee’s normal rate, if a court finds that the wages were withheld in bad faith.

Separation Notice

Employers in Louisiana must file a Form 77 - separation notice online within three days of the separation of an employee.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Louisiana, the state law claims that may be released are those under the Louisiana Employment Discrimination Law, and Louisiana's leave laws.

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Louisiana (such as when the organization separates from its last Louisiana employee), it can formally withdraw its registration to do business there by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file a [Application to Withdraw](#).

Action

- Report employee termination

Action

- Withdraw your registration to do business in Louisiana (if applicable)



Final Paycheck Requirements

Maine state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid “the amount then due under the terms of employment.”
- Payout of Unused Vacation: Employers with 11 or more employees in Maine must pay out all “[a]ll unused paid vacation accrued pursuant to the employer’s vacation policy” as part of final wages. Note that Maine’s Earned Paid Leave law (paid leave for any reason) does not require payout of accrued but unused paid leave upon separation unless the employer’s policy provides for it. Maine’s DOL has issued guidance on the interaction between these differing requirements.
- Final Paycheck Location: If final payment is made by check, the employer must have the check available to pick up at their business location on the established payday. If the employer plans to mail the check, it must reach the employee by the established payday.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and, in court action to recover wages, a reasonable rate of interest, an amount equal to twice the unpaid wages, attorney’s fees, and employee costs.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Maine, the state law claims that may be released are those under the Maine Human Rights Act, Maine's equal pay law (Me. Rev. Stat. tit. 26 § 628), Maine's leave laws, and Maine's minimum wage and overtime laws.

In Maine, non-disparagement clauses included as part of severance agreements can’t restrict employees from disclosing or discussing discrimination, including sexual harassment and sexual assault, occurring between employees or between an employer and an employee.

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Maine WARN Act

General Statement

Maine employers must pay severance and provide advance notice in the event of a closing, mass layoff (50+ employees), or relocation of a facility with 100+ employees. 90 days’ notice is required for closings and relocations, and a minimum 7 days’ notice is required for mass layoffs.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Provide WARN notices for mass layoffs



Definitions

A “Covered Establishment” is any facility or part thereof that employs, or has employed at any time in the preceding 12 months, 100 or more persons. 26 M.R.S. § 625-B(1)(A).

An “Employer” is any person who directly or indirectly owns and operates a covered establishment. 26 M.R.S. § 625-B(1)(C).

“Employment Loss” is not defined in the statute. 26 M.R.S. § 625-B(1)(C-2).

Triggering Events

A “Closing” is the permanent shutdown of operations at a covered establishment. 26 M.R.S. § 625-B(1)(A-1). This is also referred to as a substantial cessation of operations at a covered establishment. A closing may occur due to a relocation or termination of the employer’s business. 26 M.R.S. § 625-B(1)(A-1). The following factors are used in determining the date of a termination or relocation:

- The date of the decision to close or relocate the establishment;
- The date of any announcement to the employees that the establishment will be closed or relocated;
- The point at which the number of employees employed at the establishment is less than 50% of the number of employees for the same time period one year earlier;
- The point at which the number of hours worked at the establishment is less than 50% of the number of hours worked for the same time period one year earlier; and
- The point at which any production or output measure is less than 50% compared to the production or output for the same time period one year earlier. 12-170-15 Me. Code R. § II.

A “Mass Layoff” is a reduction in workforce, not due to a closing, that results in an employment loss at a covered establishment of six months or more for at least (1) 50 employees comprising at least 33% of the employees there, or (2) 500 employees. 26 M.R.S. § 625-B(1)(C-2).

A “Relocation” occurs when an employer removes all or substantially all operations in a covered establishment to a new location 100 or more miles away from its original location. 26 M.R.S. § 625-B(1)(F).

Severance

In addition to notice, employers that issue a closing or mass layoff at a covered establishment are required to pay each eligible employee, within one regular pay period after the employee’s last full day of work, severance of one week’s pay for each year of employment (prorated for any partial years), from the last full month of their employment in that establishment. 26 M.R.S. § 625-B(2). Severance is not required when (1) the closing or mass layoff is caused by a physical calamity or the final order of a government agency; or (2) the employer demonstrates that the employee is covered by, and has been paid according to, a contract providing for severance pay in an amount greater than the severance pay required by the statute. 26 M.R.S. § 625-B(3).

Action

- Provide WARN notices for mass layoffs



- An “Eligible Employee” is one who (1) at the time of the closing or mass layoff has been continuously employed at the covered establishment for at least 3 years; (2) has not been terminated for cause; and (3) has not accepted employment at another or relocated establishment operated by the employer or remains employed at the covered establishment. 26 M.R.S. § 625-B(1)(B-1).
- This also includes an employee who has voluntarily quit to take a new job within a 30-day period prior to the closing or mass layoff date set by the employer in an initial notice.

Notice Timing

- Employers must provide at least 90 days’ notice before a closing or relocation. 26 M.R.S. § 625-B(6)-(6-A). For mass layoffs, notice must be provided as far in advance as practicable, but no later than seven days before. 26 M.R.S. § 625-B(6).
- Because it is not always possible to know 90 days in advance whether closings, mass layoffs, or relocations will occur, Maine law allows the employer to avoid a \$500/day penalty for failure to provide notice for the following reasons. Note that these are not true exceptions to the Maine WARN notice requirements-only reasons to be relieved of the daily penalty:
- Final Order of a Federal, State, or Local Agency: Severance pay and the statutory \$500/day fine may not be due or imposed if failure to provide appropriate notice is due to a final order of a federal, state, or local government agency.
- Physical Calamity: Severance pay and the statutory \$400/day fine may not be due or imposed if an employer’s failure to provide appropriate notice was caused by a physical such as a fire, flood, or other natural disaster.
- Unforeseeable Business Circumstances: The statutory \$500/day fine may not be imposed if failure to provide appropriate notice is due to unforeseen circumstances, though severance pay is still owed to eligible employees.

Notice Content

- Employers must provide closing notices to (1) the Director of the Bureau of Labor Standards; (2) employees; and (3) the municipal officers of the municipality where the covered establishment is located. 26 M.R.S. § 625-B(6)(6-A).
- Employers must provide mass layoff and relocation notice to the Director of the Bureau of Labor Standards.
- Mass layoff notices must include the expected duration of the layoff and whether it is of indefinite or definite duration. A notification or report provided to the Director of Bureau of Labor Standards must contain all relevant information in the possession of the employer regarding a potential recall, if applicable. 26 M.R.S. § 625-B(6). Closing and relocation notice content is not specified.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Provide WARN notices for mass layoffs

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Maine (such as when the organization separates from its last Maine employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Withdrawal](#).
- Non-Profit Corporations must file this [Application for Surrender](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation of Foreign Qualification](#).

Action

- Report employee termination

Action

- Report employee termination



Final Paycheck Requirements

Maryland state law requires that employees who separate from their employer be paid according to the following schedule:

- **Termination Payment:** Employees who are terminated must be paid on the next scheduled payday. Sales representatives not covered by the state wage law must be paid earned commissions within 45 days of when their payment would have been due had the contract not been terminated.
- **Resignation Payment:** Employees who resign their employment must be paid on the next scheduled payday. Sales representatives not covered by the state wage law must be paid earned commissions within 45 days of when their payment would have been due had the contract not been terminated.
- **Final Wage Amount:** Employees must be paid all wages due, including commissions, fringe benefits, overtime, and any other promised remuneration.
- **Payout of Unused Vacation:** All accrued and unused vacation time must be paid upon separation unless there's a clear policy to the contrary that the employer communicated to the employee at the time of hire.
- **Final Paycheck Location:** Maryland law does not specify how final payment must be made but it is a best practice to provide wages through the regular channels of payment.
- **Failure to Pay Wages Penalties:** Employers who fail to pay wages may be required to pay the unpaid wages and, in court action to recover wages, an amount equal to three times the unpaid wages, attorney's fees, and employee costs.

Action

- Confirm any departing employee is timely paid their final earned wages

Maryland WARN Act

General Statement

Maryland employers with 50 or more employees must give 60 days' notice of a layoff, shutdown, or relocation causing employment loss for the greater of 25% or 15 employees.

Definitions

An "Employee" is someone who works for an hourly or salaried wage or who works in a managerial and supervisory capacity. Md. Code Ann., Labor and Employment § 11-301(b)(1).

- Individuals who work less than an average of 20 hours per week or have worked for an employer for less than six months in the immediately preceding 12 months are not considered employees under Maryland WARN. Md. Code Ann., Labor and Employment § 11-301(b)(2). The statute is not clear as to whether the assessment date to determine the employment timeline is from the date on which notice would be required or the date of the triggering event. Regardless, it is a best practice to provide as much notice as possible.
- An "Employer" is any entity that (1) employs at least 50 employees inside and outside the state, (2) operates an industrial, commercial, or business enterprise within Maryland, and (3) has been doing business in the state for at least a year. Md. Code Ann., Labor and Employment § 11-301(c)(1)-(2).
- A "Workplace" (site of employment under federal WARN) is a factory, plant, office or other facility where employees produce goods or provide services. Workplace does not include a construction site or other temporary workplace. Md. Code Ann., Labor and Employment § 11-301(f).

Action

- Provide WARN notices for mass layoffs



Triggering events

- Reduction in Operations: Maryland uses the term "reduction in operations" to refer to a variety of WARN-triggering events that are known in other states by names like "mass layoffs," "plant closings," and "relocations/transfers."
- A "Plant Closing" reduction in operations is the shutting down of a workplace that reduces the total number of employees by at least 25% or 15 employees, whichever is greater, over any 3-month period. Md. Code Ann., Labor and Employment § 11-301(e)(2).
- A "Mass Layoff" reduction in operations is the shutting down of a portion of the operations of a workplace that reduces the total number of employees by at least 25% or 15 employees, whichever is greater, over any 3-month period. Md. Code Ann., Labor and Employment § 11-301(e)(2).
- A "Relocation/Transfer" reduction in operations is the relocation of a part of an employer's operation from one workplace to another existing or proposed site that may reduce the total number of employees at the initial workplace by at least 25% or 15 employees, whichever is greater, regardless of time. Md. Code Ann., Labor and Employment § 11-301(e)(1).
- For purposes of determining the number of affected employees for a reduction in operations due to a transfer, employees will not be counted towards that number if they accept an offer to transfer to any other site of employment within 30 days after being offered the transfer. Md. Code Ann., Labor and Employment § 11-302(b).
- Events That Do Not Trigger WARN
- Labor Dispute: Maryland WARN does not apply to reductions in operations if the reduction results solely from labor disputes. Md. Code Ann., Labor and Employment § 11-302(a)(1).
- A "Mass Layoff" reduction in operations is the shutting down of a portion of the operations of a workplace that reduces the total number of employees by at least 25% or 15 employees, whichever is greater, over any 3-month period. Md. Code Ann., Labor and Employment § 11-301(e)(2).
- A "Relocation/Transfer" reduction in operations is the relocation of a part of an employer's operation from one workplace to another existing or proposed site that may reduce the total number of employees at the initial workplace by at least 25% or 15 employees, whichever is greater, regardless of time. Md. Code Ann., Labor and Employment § 11-301(e)(1).
- For purposes of determining the number of affected employees for a reduction in operations due to a transfer, employees will not be counted towards that number if they accept an offer to transfer to any other site of employment within 30 days after being offered the transfer. Md. Code Ann., Labor and Employment § 11-302(b).

Events That Do Not Trigger WARN

- Labor Dispute: Maryland WARN does not apply to reductions in operations if the reduction results solely from labor disputes. Md. Code Ann., Labor and Employment § 11-302(a)(1).
- **Sale of Business:** Maryland law does not expressly address the sale of a business, and it is not clear whether an exception for the sale of a business was contemplated in Maryland WARN. Because Maryland WARN's "reduction in operations" focuses on the shutting down of operations, it's likely that Maryland WARN does include a sale-of-business-exception. Regardless, the seller-employer is responsible for sending any required WARN notices up to the effective date of the sale, at which time the buyer-employer inherits that responsibility. Md. Code Ann., Labor and Employment § 11-305(d)(1).

Action

- Provide WARN notices for mass layoffs

Action

- Report employee termination



Notice Timing

- Employers must provide notice at least 60 days before initiating a reduction in operations. Md. Code Ann., Labor and Employment § 11-305.
- Because it is not always possible to know 60 days in advance whether a reduction in operations will occur, Maryland WARN contemplates the following exceptions to the notice requirement:
- Bankruptcy: Maryland WARN does not apply to reductions in operations if the reduction results when an employer files for bankruptcy under federal bankruptcy laws. Md. Code Ann., Labor and Employment § 11-302(a)(5).
- Faltering Company: Employers are not required to provide the full 60-days' notice of reductions in operations if, at the time the notice would have been required, (1) the employer was actively seeking capital or business, and (2) the employer believed that providing the notice would have precluded them from obtaining the needed capital or business. Md. Code Ann., Labor and Employment § 11-305(c)(1)(i). Employers relying on this exception should provide notice as soon as practicable and include a short statement of the basis for the reduced notice period.
- Natural Disaster: An employer is not required to comply with the notice requirement if the reduction in operations is due to any form of natural disaster such as a flood, earthquake, or drought. Md. Code Ann., Labor and Employment § 11-305(c)(1)(ii). An employer relying on this exception should provide notice as soon as practicable and include a brief statement of the basis for not providing notice at least 60 days in advance.
- Seasonal Work: Maryland WARN does not apply to reductions in operations if the reduction results from seasonal factors that are determined by the Department of Labor to be customary in the industry. Md. Code Ann., Labor and Employment § 11-302(a)(4).
- Temporary Workplace: Maryland WARN does not apply to reductions in operations if the reduction occurs at a construction site or other temporary workplace. Md. Code Ann., Labor and Employment § 11-302(a)(3).

Notice Content

- Employers must provide written notice to:
- All employees at the workplace that are subject to the reduction in operations;
- Each union representative that represents employees at the workplace that are subject to the reduction in operations;
- Individuals who work less than 20 hours on average each week or have worked for the employer for less than 6 months in the immediately preceding 12 months at the workplace that is subject to the reduction in operations;
- The Division of Workforce Development's Dislocated Worker Unit;
- The chief elected official of the political subdivision where the workplace that is subject to the reduction in operations is located, or, if the workplace is located in more than one political subdivision, the chief elected official of the political subdivision to which the employer paid the most taxes for the fiscal year immediately preceding the year in which the reduction in operations occurs. Md. Code Ann., Labor and Employment § 11-305(a).
- Notices to all of the above recipients must include:
- The name and address of the workplace where the reduction of operations is expected to occur;
- The name, telephone number, and e-mail address of a company official to contact for further information;

Action

- Provide WARN notices for mass layoffs

Action

- Report employee termination



- A statement that explains whether the reduction in operations is expected to be permanent or temporary and if the workplace is expected to shut down; and
- The expected date when the reduction in operations will begin. Md. Code Ann., Labor and Employment § 11-305(b).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Maryland, the state law claims that may be released are those under Maryland's anti-discrimination laws ([Md. Code Ann., State Gov't § 20-601](#), et seq.), the [Maryland Healthy Retail Employee Act](#), [Maryland's Equal Pay for Equal Work Act](#), Maryland's leave laws, and Maryland's [minimum wage and overtime](#) laws.

In Maryland, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing information regarding work-related sexual harassment, sexual assault, or retaliation for reporting or asserting a right or remedy based on sexual harassment or sexual assault.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

- Once an organization stops doing business in Maryland (such as when the organization separates from its last Maryland employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.
- For-Profit Corporations must file this [Application for Termination of Registration](#).
- Non-Profit Corporations must file this [Application for Termination of Qualification](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination

Action

- Withdraw your registration to do business in Maryland (if applicable)



Final Paycheck Requirements

- [Massachusetts state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid immediately. Sales representatives must be paid earned commissions within 14 days of the contract termination.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday. If there is no regular/scheduled payday, then payment must be made on the Saturday following resignation. Sales representatives must be paid earned commissions within 14 days of the contract termination.
- Final Wage Amount: Employees must be paid all wages in full.
- Payout of Unused Vacation: All accrued and unused holiday and vacation time must be paid upon separation. Employers can place a reasonable cap on vacation accrual if the employer gives adequate prior notice of the policy, sets specific deadlines by which earned vacation time must be taken, and provides employees reasonable opportunity to take vacation.
- Final Paycheck Location: Massachusetts law does not specify how final payment must be made but it is a best practice to provide wages through the regular channels of payment.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay triple the unpaid wages and are subject to civil citations and criminal penalties up to \$25,000, one year's imprisonment, or both for initial violations and up to \$50,000, two years' imprisonment, or both for repeat violations.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in Massachusetts who separate from employment, whether temporary or permanent, must be provided [Form 590-A - How to File a Claim for Unemployment Insurance Benefits](#) within thirty days of separation.

Action

- Check that you are providing all required notices upon separation

Massachusetts WARN Act

General Statement

Massachusetts employers with 50 or more employees must provide “prompt” notice to the Department of Career Services and must notify employees of benefits continuation rights when closing or partially closing a facility.

Definitions

An “Employee” is someone who, at upon termination, has performed services for wages at a facility (including part-time) for the past four quarterly periods and is otherwise eligible for unemployment benefits (excluding seasonal work). Mass. Gen. Laws ch. 151A, § 71A.

An “Employer” is an entity that owns or operates a facility, except those employers engaged in a seasonal enterprise. Mass. Gen. Laws ch. 151A, § 71A.

A “Facility” is a plant, factory, or other place of employment located in Massachusetts which has 50 or more employees during any month in the six-month period before the date of plant closing or partial plant closing. Mass. Gen. Laws ch. 151A, § 71A.

Action

- Provide WARN notices for mass layoffs



Triggering Events

A Partial Closing is the permanent cessation of a major portion of the business at a facility, resulting in the termination of a significant number of employees and affecting workers and communities similar to that of a plant closing. Mass. Gen. Laws ch. 151A, § 71A.

A Plant Closing is the cessation or reduction of business at a facility resulting in the permanent separation of at least 90% of the employees in the six months before the date of the plant closing. Mass. Gen. Laws ch. 151A, § 71A. Employers who receive financing from a quasi-public agency must make a good-faith effort to provide at least 90 days' notice to affected employees. Mass. Gen. Laws ch. 149, § 182.

Notice Timing

Notice must be delivered “promptly.” Mass. Gen. Laws ch. 151A, § 71B(a). Massachusetts doesn't provide further guidance.

Notice Content

When closing a facility or when relocating a business within Massachusetts, notice must be provided to the Director of the Department of Career Services. Mass. Gen. Laws ch. 151A, § 71B(a); Mass. Gen. Laws ch. 149, § 179B. Employers may also voluntarily provide advance notice to affected employees or their collective bargaining agent. Mass. Gen. Laws ch. 151A, § 71A.

Notice to the Director of the Department of Career Services must include information necessary to determine an employee's reemployment assistance benefits rights. Mass. Gen. Laws ch. 51A, § 71B.

Severance Agreements

Employers may only include non-compete provisions in severance agreements if the employee is terminated “for cause” and is provided a seven-day revocation period. Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Massachusetts, the state law claims that may be released are those under the Massachusetts Wage Payment Act ([M.G.L. c. 149 § 148](#)), [Massachusetts Act to Establish Pay Equity](#), [Massachusetts Fair Employment Practices Act](#), [Massachusetts Equal Rights Act](#), [Pregnant Workers Fairness Act](#), [Massachusetts Employee Privacy Act](#), and Massachusetts' leave laws.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Massachusetts (such as when the organization separates from its last Massachusetts employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file this Certificate of Withdrawal. The form is available through [Massachusetts' online filing system](#).

Action

- Withdraw your registration to do business in Massachusetts (if applicable)



Final Paycheck Requirements

Michigan administrative code requires that employees who separate from their employer be paid “on the regularly scheduled payday for the period in which the termination occurs.”

- Final Wage Amount: Employees must be paid all wages earned and due.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation unless the employer has a clear policy denying that payment upon separation which the employee agrees to in writing.
- Final Paycheck Location: Michigan law does not specify how final payment must be made but it is a best practice to provide wages through the regular channels of payment.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and could be subject to criminal penalties up to fines of \$1,000, one year of imprisonment, or both.

Separation Notice

All employees in Michigan who separate from employment must be provided Form UIA 1711 – Unemployment Compensation Notice to Employees at the time of separation.

Michigan WARN Act

General Statement

Michigan employers are encouraged to provide notice when Closing or Relocating an establishment with 25+ employees. Compliance is voluntary.

Triggering Events

A “Closing” is the permanent shutdown of operations at any establishment where at least 25 employees are employed. Mich. Comp. Laws § 450.732(a).

A “Relocation” is the transfer of part of a business’s operations from one establishment to another that is “located at a distance” from the first location and causes a reduction of at 25 employees (excluding transfers within the same political subdivision). Mich. Comp. Laws § 450.732.

Notice Timing

Employers are encouraged to provide notice to (1) the Michigan Department of Labor, (2) employees at the affected establishment, (3) any organizations representing employees at the affected establishment, and (4) the community where the establishment is located as early as possible before a Closing or Relocation. Mich. Comp. Laws § 450.736.

Notice Content

Michigan law does not specify what WARN notices should contain.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Withdraw your registration to do business in Massachusetts (if applicable)



Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Michigan, the state law claims that may be released are those under the [Elliott-Larsen Civil Rights Act](#), [Persons With Disabilities Civil Rights Act](#), [Bullard-Plawecki Employee Right to Know Act](#), [Social Security Number Privacy Act](#), [Internet Privacy Protection Act](#), Michigan's leave laws, and Michigan's [minimum wage](#) and [overtime](#) laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Michigan (such as when the organization separates from its last Michigan employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#). Corporations must also request a [Tax Clearance](#) from the Michigan Department of the Treasury within 60 days of filing their Application.
- Limited Liability Companies (LLCs) must file this [Application for Certificate of Withdrawal](#). LLCs must also request a [Tax Clearance](#) from the Michigan Department of the Treasury within 60 days of filing their Application.

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Michigan (if applicable)



Final Paycheck Requirements

Minnesota state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated are due their final wages immediately and must be paid within 24 hours of written demand.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday unless that payday is less than 5 days from separation, then the following payday. Regardless, employees must be paid at least within 20 calendar days of separation.
- Commission Payment: “Commission salespersons” who are terminated or who resign after giving at least 5 days’ written notice must be paid all commissions earned through the last day of employment no later than 3 working days after the salesperson’s last day of work. If a salesperson gives fewer than 5 days’ notice, then commissions earned are due on demand no later than 6 working days after the salesperson’s last day of work.
- Final Wage Amount: Employees must be paid all wages or commissions actually earned and unpaid. Departing employees must also be paid for any unreimbursed expenses deducted from their wages upon termination.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation unless the employer has a clear and unambiguous policy

stating it won’t be paid out. Final Paycheck Location: Employees must be paid according to the usual manner of payment or by mail, if requested by the employee.

- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to an additional 15 days’ wages at the employee’s highest rate of pay.

Separation Notice

Minnesota requires all employers that provide a group health insurance plan to notify separated employees of their right to continue coverage under Minnesota’s state-level COBRA law at the time of separation. The notice must inform the separated employee of:

- the employee’s right to elect to continue coverage;
- the amount the employee must pay monthly to the employer to retain the coverage;
- the manner in which and the office of the employer to which the payment to the employer must be made; and
- the time by which the payments to the employer must be made to retain coverage.

Note: Employers that offer a group health insurance plan that is administered by a trust are exempt from the notice requirement.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation



Minnesota WARN Act

General Statement

Minnesota employers are encouraged to notify affected employees prior to a Plant Closing, Substantial Layoff that affects 50+ employees, or Relocation of Operations. Compliance is mostly voluntary, except that employers are required to give notice to the Commissioner of Employment and Economic Development if the Plant Closing, Substantial Layoff, or Relocation of Operations triggers federal WARN requirements.

Triggering Events

A “Plant Closing” is any announced or actual permanent or temporary shutdown of a single site of employment that results in an employment loss for 50+ employees (excluding Part-Time Employees) at the site during any 30-day period. Minn. Stat. § 116L.976(1)(b)

- A “Part-Time Employee” is any employee that works less than 20 hours per week. Minn. Stat. § 116L.976.

A “Substantial Layoff” is a permanent reduction in workforce that affects 50+ employees (excluding Part-Time Employees) at a single site of employment during a 30-day period. Minn. Stat. § 116L.17(1)(f).

Minnesota law states its WARN provisions apply in the event of a “Relocation of Operations,” but that phrase is not defined.

Notice Timing

Employers are encouraged to give notice to (1) affected employees, (2) any representatives of affected employees, the local government in which the affected establishment is located, and (4) the Minnesota Commissioner of Employment and Economic Development as early as possible before a Plant Closing, Substantial Layoff, or Relocation of Operations occurs. Providing the notice is voluntary, except that employers must provide 60 days’ notice to the Commissioner of Employment and Economic Development if the Plant Closing, Substantial Layoff, or Relocation of Operations triggers federal WARN requirements. Minn. Stat. § 116L.976(1)(a).

Notice Content

If federal WARN requirements are triggered, the notice delivered to the Minnesota Commissioner of Employment and Economic Development must include the names, addresses, and occupations of the employees who will be or have been terminated. Minn. Stat. § 116L.976(2). Minnesota law does not specify what WARN notices to any other parties should contain.

Action

- Provide WARN notices for mass layoffs

Action

- Provide WARN notices for mass layoffs



Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Minnesota, the state law claims that may be released are those under the [Minnesotan Human Rights Act](#), Minnesota's [minimum wage](#) and [overtime](#) laws, and Minnesota's leave laws. Further, under the [Minnesota Human Rights Act](#), employers must provide a 15-day revocation period for employees to rescind their release.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Minnesota (such as when the organization separates from its last Minnesota employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Withdrawal](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Minnesota



Final Paycheck Requirements

Mississippi does not regulate how and when final paychecks must be paid. However, it is a best practice to ensure that your departing employees are fully paid their earned wages in a timely manner. Many states require for employers to provide final paychecks on the next regularly scheduled payday. Employers who fail to pay wages to their separated employees can face civil penalties at least equal to the unpaid wages and can even be subject to criminal penalties including jail time. Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Mississippi, the state law claims that may be released are those under Mississippi's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Report terminated employees

Withdraw Registration to do Business

Once an organization stops doing business in Mississippi (such as when the organization separates from its last Mississippi employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file this [Application for Certificate of Withdrawal](#).

Action

- Withdraw your registration to do business in Mississippi (if applicable)



Final Paycheck Requirements

Missouri state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid immediately.
- Resignation Payment: Missouri law does not specify how soon after resignation a departing employee must be paid but it is a best practice to provide payment on the next regularly scheduled payday.
- Final Wage Amount: Employees must be paid all unpaid wages then earned at the contract rate, without abatement or deduction.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Employees must be paid in person or by mail, upon the employee's written request.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to an additional 60 days' wages at the employee's regular pay rate.

Separation Notice

All employers in Missouri are required to provide separated employees with a copy of M-INF-170-11-AI: Information for Workers at the time of separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Missouri, the state law claims that may be released are those under the Missouri Human Rights Act, Missouri's leave laws, Missouri's wage payment laws, and Missouri's minimum wage and overtime laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees



You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Missouri (such as when the organization separates from its last Missouri employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Certificate of Withdrawal](#). For-Profit Corporations must also obtain a tax clearance from the Missouri Department of Revenue using the Request for Tax Clearance form included in the Application packet.
- Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#). Non-Profit Corporations must also obtain a tax clearance from the Missouri Department of Revenue using the Request for Tax Clearance form included in the Application packet.

Limited Liability Companies (LLCs) must file this [Application for Cancellation](#). Unlike Corporations, LLCs do not need to obtain a tax clearance to withdraw.

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Missouri (If applicable)

Action

- Withdraw your registration to do business in Missouri (If applicable)

Final Paycheck Requirements

Montana state law requires that employees who separate from their employer be paid according to the following schedule:

- **Termination Payment:** Employees who are terminated for cause must be paid immediately (within four hours of the end of the business day) unless the employer has a written policy extending that time to the earlier of the next payday or within 15 days. Because Montana is not an at-will employment state, termination without cause may be actionable.
- **Resignation Payment:** Employees who resign their employment must be paid the earlier of the next scheduled payday or within 15 days from the date of resignation.
- **Final Wage Amount:** Employees must be paid all unpaid wages.
- **Payout of Unused Vacation:** All accrued and unused vacation time must be paid upon separation, but policies capping the accrual of vacation are lawful.
- **Final Paycheck Location:** Employees must be paid through regular payment channels or by mail, if requested.
- **Failure to Pay Wages Penalties:** Employers who fail to pay wages are guilty of a misdemeanor and must be penalized by paying the wages owed and an additional payment of up to 110% of the unpaid wages.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers may only include non-compete provisions in severance agreements if the employee is terminated “for cause.”

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Montana, the state law claims that may be released are those under the Montana Human Rights Act, Montana Equal Pay Law, Montana Wrongful Discharge from Employment Act, Montana's minimum wage and overtime laws, and Montana's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

Action

- Report terminated employees



Withdraw Registration to do Business

Once an organization stops doing business in Montana (such as when the organization separates from its last Montana employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file an Application for Withdrawal using [Montana's online portal](#). Instructions for submitting the necessary form can be found [here](#).

Action

- Withdraw your registration to do business in Montana (if applicable)

Final Paycheck Requirements

Nebraska state law requires that employees who separate from their employer be paid according to the following schedule:

- **Termination Payment:** Employees who are terminated must be paid on the next scheduled payday or within two weeks of termination, whichever is earlier. Neb. Rev. Stat. § 48-1230.
- **Resignation Payment:** Employees who resign their employment must be paid on the next scheduled payday or within two weeks of resignation, whichever is earlier. Neb. Rev. Stat. § 48-1230.
- **Commission Payment:** Commissions for discharged employees become due on the next regular payday following the employer's receipt of payment for the goods/services from the customer from which the commission was generated. Neb. Rev. Stat. § 48-1230.1.
- **Final Wage Amount:** Employees must be paid all unpaid wages.
- **Payout of Unused Vacation:** All earned, unused vacation time must be paid upon separation. Neb. Rev. Stat. § 48-1229.
- **Final Paycheck Location:** Nebraska law does not specify how final wages must be paid but it is a best practice to provide them through the usual payment methods.
- **Failure to Pay Wages Penalties:** Employers who fail to pay wages may be subject to lawsuits resulting in liability for the amount of unpaid wages and the full cost of such suit. Further, employers who fail to pay wages may also be found guilty of an infraction, punishable by up to \$500 for repeat violations.

Separation Notice

Nebraska requires all employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Nebraska's state-level COBRA law within 10 days of separation. The notice must set forth:

- the right of the terminated employee to elect to continue coverage in accordance with section 44-1640 and the election form to be used in exercising such right;
- the amount of each monthly premium to be paid by the terminated employee; and
- the manner, time, and to whom the election form shall be completed and returned and each monthly premium shall be paid.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Nebraska, the state law claims that may be released are those under the Nebraska Fair Employment Practices Act, Nebraska Age Discrimination in Employment Act, Nebraska Wage Payment and Collection Act, Nebraska Pregnant Workers Fairness Act, Nebraska's minimum wage laws, and Nebraska's leave laws.

Action

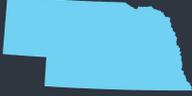
- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable



It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Nebraska (such as when the organization separates from its last Nebraska employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file a Certificate of Withdrawal. The form can be accessed via the [Nebraska Secretary of State's website](#).
- Limited Liability Companies (LLCs) must file a Notice of Cancellation. The form can be accessed via the [Nebraska Secretary of State's website](#).

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Nebraska (if applicable)

Final Paycheck Requirements

[Nevada state law](#) requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid immediately.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within seven days of resignation, whichever is earlier.
- Final Wage Amount: Employees must be paid all “wages and compensation earned and unpaid at the time of [separation].”
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy provides for it.
- Final Paycheck Location: Nevada law does not specify how final wages must be paid but it is a best practice to provide them through the usual payment methods.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to an additional 30 days’ wages at the employee’s regular pay rate.

Separation Notice

All employees in Nevada who separate from employment must be provided [Notice NUCS 4139 – Information for the Unemployed Worker](#).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Nevada, the state law claims that may be released are those under the [Nevada Employment Practices Act](#), [Nevada Pregnant Workers Fairness Act](#), [Nevada's equal pay laws](#), Nevada's leave laws, and Nevada's [minimum wage and overtime laws](#).²

In Nevada, non-disparagement clauses included as part of severance agreements can’t restrict employees from disclosing or discussing facts related to a sexual harassment or sexual assault dispute or testifying at a judicial or administrative proceeding concerning the commission of (1) a criminal offense, (2) an act of sexual harassment, (3) an act of discrimination, or (4) an act of retaliation for reporting discrimination.

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Nevada (such as when the organization separates from its last Nevada employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Dissolution/Withdrawal](#).
- Non-Profit Corporations must file this [Certificate of Dissolution/Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Dissolution/Cancellation](#).

Action

- Withdraw your registration to do business in Nevada (if applicable)



Final Paycheck Requirements

- New Hampshire state law requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid within 72 hours of termination. If the employee is laid off, they must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday. If the employee provides at least one pay period's notice, then they must be paid within 72 hours of separation.
- Final Wage Amount: Employees must be paid all earned wages in full.
- Payout of Unused Vacation: If an employer's policy is silent as to whether accrued vacation is paid upon separation, then generally it is payable as wages. Employers are not required to pay out unused vacation if they have a clear policy to that effect.
- Final Paycheck Location: Employees must be paid through regular pay channels or by mail if so requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and the lesser of (1) an amount equal to the unpaid wages or (2) 10% of the unpaid wages for each day the wages remain unpaid.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in New Hampshire who separate from employment must be notified of their eligibility for COBRA coverage within 15 days from the date of separation.

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Nevada, the state law claims that may be released are those under the Nevada Employment Practices Act, Nevada Pregnant Workers Fairness Act, Nevada's equal pay laws, Nevada's leave laws, and Nevada's minimum wage and overtime laws.²

Action

- Check that the provisions in severance agreements are enforceable

In Nevada, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing facts related to a sexual harassment or sexual assault dispute or testifying at a judicial or administrative proceeding concerning the commission of (1) a criminal offense, (2) an act of sexual harassment, (3) an act of discrimination, or (4) an act of retaliation for reporting discrimination.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

New Hampshire WARN Act

General Statement

Covered Employers must provide Affected Employees with 60 days' notice before either: (1) a Plant Closing that affects 50+ employees, or (2) a Mass Layoff of (A) 25+ employees (if the laid off employees constitute 33% or more of the Covered Employer's total workforce) or (B) 250+ employees.

Action

- Provide WARN notices for mass layoffs



Definitions

A "Covered Employer" is any organization that employs (1) 100 or more employees (not including Part-Time Employees), or (2) 100 or more employees (including Part-Time Employees) who work at least 3,000 hours per week in the aggregate (excluding overtime hours). Only employees in New Hampshire should be counted for the purposes of determining whether an organization qualifies as a Covered Employer.

- A "Part-Time Employee" is an employee who (1) is employed for an average of fewer than 20 hours per week, or (2) has been employed for fewer than 6 of the 12 months preceding the date on which the WARN notice must be provided. An "Affected Employee" is any employee who may reasonably be expected to experience an Employment Loss as a consequence of a Plant Closing or Mass Layoff.
- An "Employment Loss" is (1) termination of employment, other than a discharge for cause, voluntary departure, or retirement; (2) a temporary layoff for a period exceeding 6 months; or (3) a 50%+ reduction in work hours during each month of a 6-month period.

Triggering Events

- A "Plant Closing" means the permanent or temporary shutdown of a single site of employment in New Hampshire that results in an Employment Loss for 50 or more employees (excluding Part-Time employees) during a 30-day period.
- A "Mass Layoff" means a reduction in force that is not a Plant Closing and results in an Employment Loss at a single site of employment for either (1) 25 or more employees (excluding Part-Time Employees and Seasonal Employees) if the laid off employees constitute at least 33% of the Covered Employer's total workforce (again excluding Part-Time and Seasonal Employees), or (2) 500 or more employees (excluding Part-Time and Seasonal Employees), regardless of the size of the Covered Employer's total workforce.
- A "Seasonal Employee" is an employee who has been employed for fewer than 6 of the 12 months preceding the date on which the WARN Notice must be provided, or an employee hired with the understanding that his or her employment was limited to the duration of a particular project or undertaking.

Notice Timing

- Notice must be delivered at least 60 days before the Plant Closing or Mass Layoff occurs.
- Because it is not always possible to know 60 days in advance whether Mass Layoffs or Plant Closings will occur, the Act contemplates the following exceptions to the 60-day requirement. If an exception applies, the Covered Employer is not required to deliver notice 60 days in advance and must instead deliver notice "as soon as is practicable." Employers that reduce the required notice period due to one of these exceptions must include a "complete, detailed statement" of their basis for doing so in the WARN notice.
- Unforeseeable Business Circumstances: 60 days' notice is not required if the Mass Layoff or Plant Closing was not reasonably foreseeable at the time Notice would have ordinarily been required.
- Mass Layoff Extension: A Mass Layoff of more than 6 months which was announced to be a layoff of 6 months or less is an employment loss unless: (1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and (2) notice is given when it becomes reasonably foreseeable that the extension beyond 6 months will be required. N.H. Rev. Stat. Ann. § 275-F:5.

Action

- Provide WARN notices for mass layoffs



- **Faltering Company:** 60 days' notice before a Plant Closing is not required if (1) at the time notice would ordinarily be required, the Covered Employer was actively seeking financing or new business that would have enabled the Covered Employer to avoid or postpone the Plant Closing, and (2) the Covered Employer reasonably and in good faith believed that giving 60 days' notice would have prevented them from obtaining the financing or new business. The Faltering Company exception only applies to Plant Closings, so Covered Employers cannot use it to avoid giving 60 days' notice of Mass Layoffs.
- **Natural Disaster:** 60 days' notice is not required if the Plant Closing or Mass Layoff is necessitated by any form of natural disaster. To qualify for this exception, a Covered Employer must be able to demonstrate that the Plant Closing or Mass Layoff is a direct result of the natural disaster.
- **Temporary Facility/Project Completion:** 60 days' notice is not required if the Plant Closing is of a temporary facility or the Plant Closing/Mass Layoff is the result of the completion of a particular project or undertaking, and the Affected Employees were hired with the understanding that their employment was limited to the duration of the project or undertaking.

Notice Content

- Covered Employers must provide notices to (1) Affected Employees, (2) any representatives of Affected Employees (e.g., union representatives), (3) the Commissioner of the New Hampshire Department of Labor, (4) the New Hampshire Attorney General, and (5) the chief elected official of the municipality within which the Plant Closing or Mass Layoff will occur.

Notices must include:

- The name and address of the employment site where the Plant Closing or Mass Layoff will occur;
- The name and telephone number of a company official to contact for further information;
- A statement as to whether the planned action is expected to be permanent or temporary;
- A statement as to whether the entire plant is being closed;
- The expected date of the first separation and the anticipated schedule for making separations; and
- Any other information required by the federal WARN Act.

Severance Agreements

- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In New Hampshire, the state law claims that may be released are those under the [New Hampshire Law Against Discrimination](#), [New Hampshire Paycheck Fairness Act](#), New Hampshire's leave laws, and New Hampshire's [minimum wage and overtime](#) laws.
- It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.
- Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

- If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).
- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
 - Employee Name
 - Employee Case Identifier
 - Last Known Home Address
 - New Employer Address (if known)
 - Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in New Hampshire (such as when the organization separates from its last New Hampshire employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Certificate of Withdrawal](#). For-Profit Corporations must also submit a [clearance from the New Hampshire Department of Revenue](#) showing that all state taxes have been paid.
- Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Application for Certificate of Cancellation](#). LLCs must also submit a [clearance from the New Hampshire Department of Revenue](#) showing that all state taxes have been paid.

Action

- Report employee termination

Action

- Withdraw your registration to do business in New Hampshire (if applicable)



Final Paycheck Requirements

New Jersey state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Commission Payment: Commissions must be paid to sales representatives within 30 days after the date of termination of a contract or 30 days after the date commissions are due, whichever is later. N.J. Stat. Ann. § 2A:61A-2.
- Final Wage Amount: Employees must be paid “all wages due.”
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: New Jersey law does not specify how final wages must be paid but it is a best practice to provide them through the usual payment methods.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to 200% of the withheld wages to the employee. Further, employers’ knowing failure to pay wages may be punished by up to \$2,000 in fines, 100 days’ imprisonment, or both for repeat violations.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in New Jersey who separate from employment for seven or more days must be provided Form BC-10 – Instructions for Claiming Unemployment Benefits. New Jersey also requires employers that provide a group health insurance plan and have fewer than 51 employees to notify separated employees of their right to continue coverage under New Jersey’s state-level COBRA law at the time of separation.

Action

- Check that you are providing all required notices upon separation

New Jersey WARN Act

General Statement

Covered Employers must provide Affected Employees with 90 days' notice and severance pay before a Plant Closing, Mass Layoff, or Transfer of Operations occurs.

Definitions

A "Covered Employer" is any organization that employs 100 or more employees, including both part-time and full-time employees.

An "Affected Employee" is any employee who may reasonably be expected to experience an Employment Loss as a consequence of a Plant Closing, Mass Layoff or Transfer of Operations.

- An "Employment Loss" is any termination of employment or temporary layoff for a period exceeding 6 months, other than a discharge for cause, voluntary departure, or retirement.

Triggering Events

- A "Plant Closing" (referred to as a "Termination of Operations" under New Jersey law) means the permanent or temporary shutdown of a single Establishment that results in an Employment Loss for 50 or more employees (including both part-time and full-time employees).

Action

- Provide WARN notices for mass layoffs



- An "Establishment" is a place of employment that has been operated by a Covered Employer for a period longer than 3 years. Under recent amendments to New Jersey law, an Establishment "may be a single location or a group of locations, including any facilities located in [New Jersey]." This amendment appears to require Covered Employers to count all facilities within New Jersey as a single Establishment for the purposes of determining when a WARN notice is required.
- A "Mass Layoff" means a reduction in force that is not a Plant Closing or a Transfer of Operations and results in an Employment Loss for 50 or more employees (including both part-time and full-time employees) at a single Establishment.
- A "Transfer of Operations" means the permanent or temporary transfer of a single Establishment to another location inside or outside New Jersey that results in an Employment Loss for 50 or more employees.

Severance

In addition to the required notice, Covered Employers must provide each Affected Employee with a severance payment equal to "one week of pay for each full year of employment." Severance is calculated as "the average regular rate of compensation received during the employee's last three years of employment with the employer or the final regular rate of compensation paid to the employee, whichever rate is higher."

If the Covered Employer provides less than 90-days' notice, it must pay Affected Employees an additional four weeks' worth of severance pay, on top of the payment described above.

Notice Timing

Notice must be delivered at least 90 days before the Plant Closing, Mass Layoff, or Transfer of Operations occurs.

Because it is not always possible to know 90 days in advance whether Mass Layoffs, Plant Closings, or Transfers of Operations will occur, the Act contemplates the following exception to the notice requirement.

- Mass Layoff Extension: A layoff lasting more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, will not be treated as a termination of employment if the extension beyond 6 months is caused by business circumstances not reasonably foreseeable at the time of the initial layoff, and notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required. N.J. Stat. Ann. § 34:21-1

Notice Content

Covered Employers must provide notices to (1) Affected Employees, (2) any collective bargaining units at the affected Establishment, (3) the chief elected official of the municipality within which the Plant Closing, Mass Layoff, or Transfer of Operations will occur, and (4) the New Jersey Commissioner of Labor and Workforce Development.

New Jersey WARN notices must be provided via [this form](#) published by the New Jersey Department of Labor and Workforce Development. The notice must contain the following information:

- A statement of the number of employees whose employment will be terminated in connection with the mass layoff or transfer or termination of operations;

Action

- Provide WARN notices for mass layoffs



- The date or dates on which the mass layoff or transfer or termination of operations will occur and the date each termination of employment will occur;
- A statement of the reasons for the mass layoff or transfer or termination of operations;
- A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment;
- A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including any rights based on a collective bargaining agreement or other existing employer policy;
- A disclosure of the amount of the severance pay which is payable pursuant to New Jersey WARN; and
- A statement of the employees' right to receive from the response team information, referral, and counseling regarding: public programs which may make it possible to delay or prevent the triggering event; public programs and benefits to assist the employees; and employee rights based on law.

Severance Agreements

- Employers who wish to include a confidentiality provision in severance agreements also need to provide a confidentiality notice to the employee. The notice must inform the employee that if the employee publicly reveals sufficient details of the agreement such that the employer is reasonably identifiable, the employer is no longer bound by the confidentiality provision.
- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In New Jersey, the state law claims that may be released are those under the [New Jersey Law Against Discrimination](#), [New Jersey Conscientious Employee Protection Act](#), [New Jersey Wage Payment Law](#), [New Jersey Equal Pay Act](#), New Jersey COVID-19 Job Protection Act, New Jersey Wage and Hour Law, [New Jersey Wage Collection Law](#), [New Jersey Security and Financial Empowerment Act](#), [Worker Freedom from Employer Intimidation Act](#), and New Jersey Family Medical Leave Act and other leave laws. In New Jersey, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing details relating to a claim of discrimination, retaliation, or harassment, including any sexual harassment dispute or sexual assault dispute.
- It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.
- Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in New Jersey (such as when the organization separates from its last New Jersey employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Withdrawal](#). For-Profit Corporations must also obtain a [clearance from the New Jersey Department of Taxation](#) showing that all state taxes have been paid.
- Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Report employee termination

Action

- Report employee termination

Action

- Withdraw your registration to do business in New Jersey (if applicable)

Final Paycheck Requirements

- [New Mexico state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Terminated employees who are paid a fixed and definite amount must be paid within five days. Employees paid on a task, piece, or commission basis must be paid within 10 days of termination.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages or compensation due.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation.
- Final Paycheck Location: New Mexico law does not specify how final wages must be paid but it is a best practice to provide them through the usual payment methods.
- Failure to Pay Wages Penalties: Employers who fail to pay wages are guilty of a misdemeanor punishable by up to \$50 fines, 90 days' imprisonment, or both for every offense.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In New Mexico, the state law claims that may be released are those under the [New Mexico Human Rights Act](#), [New Mexico Minimum Wage Act](#), [New Mexico Wage Payment Act](#), and New Mexico's leave laws. In New Mexico, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing facts related to a dispute or claim of sexual harassment, sexual assault, discrimination, or retaliation occurring in the workplace or work-related event coordinated by the employer.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination

Withdraw Registration to do Business

Once an organization stops doing business in New Mexico (such as when the organization separates from its last New Mexico employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Withdrawal](#). For-Profit Corporations must also submit a [Certificate of No Tax Due](#) from the New Mexico Department of Taxation and Revenue as well as a [Certificate of Compliance](#) from the New Mexico Department of Workforce Solutions.
- Non-Profit Corporations must file this [Application for Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Application for Cancellation](#).

Action

- Withdraw your registration to do business in New Mexico (if applicable)



Final Paycheck Requirements

- [New York state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Commission Payment: Commissions owed to sales representatives must be paid within 5 business days after termination of the contract, or 5 business days after the commissions become due in the case of commissions earned but not due when the sales contract terminates.
- Final Wage Amount: Employees must be paid all wages due. Some employers are required to pay bonuses to medical workers in New York. The DOH has issued [a chart](#) outlining whether those employees are entitled to their bonuses upon separation.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation unless the employer states in a policy or contract that this leave is not paid upon separation.
- Final Paycheck Location: Employees may be paid through the regular payment channels or by mail, if requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay civil fines of \$500 for each violation, the unpaid wages, and attorney's fees and costs if the employee is forced to recover wages in court. Further, employers' knowing failure to pay wages is a misdemeanor punishable by up to \$20,000 in fines, 366 days' imprisonment, or both for repeat violations.

Separation Notice

All employees in New York who separate from employment, are subject to reduction in hours, temporary separation, and any other interruption of employment must be informed of their right to apply for unemployment benefits and provided a completed [Form IA12.3 – Record of Employment](#). New York State Labor Law §195(6) requires employers to notify any employee terminated from employment, in writing, of the exact date of such termination as well as the exact date of cancellation of employee benefits connected with such termination, including cancellation of accident or health insurance and/or other benefits offered by CRB Workforce such as accrued time off within five days after separation. New York also requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under New York's state-level COBRA law within 14 days of separation.

New York WARN Act

General Statement

Covered Employers must give Affected Employees 90 days' notice before either (1) a Plant Closing, Mass Layoff, or Covered Reduction in Work Hours that affects (A) 25+ employees (if the Affected Employees constitute at least 33% of the site's workforce) or (B) 250+ employees; or (2) a Relocation that causes an Employment Loss for 25+ employees.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Provide WARN notices for mass layoffs



Definitions

A "Covered Employer" is any organization that (1) employs 50 or more people within New York (excluding Part-Time Employees) or (2) employs 50 or more employees in New York who work an aggregate of at least 2,000 hours per week (including Part-Time Employees). This employee count includes any employees who work remotely but are based at a New York employment site. 12 N.Y. Comp. Codes R. & Regs. (N.Y.C.R.R.) § 921-1.1(e)

- A "Part-Time Employee" is an employee who (1) is employed for an average of fewer than 20 hours per week, or (2) has been employed for fewer than 6 of the 12 months preceding the date on which the WARN notice would be required. N.Y. Lab. Law § 860-a(5); 12 N.Y.C.R.R. § 921-1.1(l)

An "Affected Employee" is any employee who may reasonably be expected to experience an Employment Loss as a consequence of a Plant Closing, Mass Layoff, or Covered Reduction in Work Hours. N.Y. Lab. Law § 860-a(1)

- An "Employment Loss" is (1) a termination of employment other than a discharge for cause, voluntary departure, or retirement; (2) a temporary layoff for a period exceeding six months; or (3) a reduction in hours of work of more than 50% during each month of any consecutive six-month period. N.Y. Lab. Law § 860-a(2).

Triggering Events

A "Plant Closing" means the temporary or permanent shutdown of a single site of employment that results in an Employment Loss for 25 or more employees (excluding Part-Time Employees) during a 30-day period. N.Y. Lab. Law § 860-a(6)

A "Mass Layoff" means a reduction in force that results in an Employment Loss at a single site of employment during a 30-day period for (1) 25+ employees (excluding Part-Time Employees) if the laid off employees constitute at least 33% of the workforce at the site, or (2) 250+ employees (excluding Part-Time Employees), regardless of the size of the workforce at the site. N.Y. Lab. Law § 860-a(4)

- A "Relocation" means the removal of all or substantially all of the industrial or commercial operations of an employer to a different location 50 miles or more from the original site that causes 25+ employees (excluding Part-Time Employees) to suffer an Employment Loss. 12 N.Y.C.R.R. § 921-1.1(n)
- A "Covered Reduction in Work Hours" means a reduction in hours of work of more than 50% during each month of a consecutive 6-month period that affects (1) 25+ employees (excluding Part-Time Employees), if the Affected Employees constitute at least 33% of the workforce at the site, or (2) 25+ employees (excluding Part-Time Employees), regardless of the size of the workforce at the site. 12 N.Y.C.R.R. § 921-1.1(f)(1)(iii)
- Events That Do Not Trigger WARN
- A Covered Employer is not required to serve notice when permanently replacing an employee who is deemed to be an economic striker under the National Labor Relations Act, provided that the Strike or Lockout is not intended to evade the WARN Act requirements. Employers may only claim this exception after seeking and receiving an eligibility determination from the New York Department of Labor. N.Y. Lab. Law § 860-c(1)(e); 12 N.Y.C.R.R. § 921-6.5.

Notice Timing

Notice must be delivered at least 90 days before the Plant Closing, Mass Layoff, or Covered Reduction in Work Hours occurs.

Action

- Provide WARN notices for mass layoffs



Because it is not always possible to know 90 days in advance whether Mass Layoffs, Plant Closings, or Covered Reductions in Work Hours will occur, the Act contemplates the following exceptions to the 90-day requirement. If an exception applies, the Covered Employer is not required to deliver notice 90 days in advance and must instead deliver notice "as soon as is practicable."

- **Unforeseeable Business Circumstances:** 90 days' notice is not required if the triggering event was not reasonably foreseeable at the time Notice would have ordinarily been required. Notably, Covered Employers can only rely on this exception if they first obtain pre-approval to do so from the New York Department of Labor. Covered Employers can apply for pre-approval by submitting a request to the NYDOL no more than 10 business days after sending the NYDOL the required WARN notice. 12 N.Y.C.R.R. §§ 921- 6.6.
- **Mass Layoff Extension:** An employer that previously announced and carried out a temporary mass layoff of 6 months or less that is extended beyond 6 months due to business circumstances not reasonably foreseeable at the time of the initial layoff must give notice as soon as it becomes reasonably foreseeable that an extension is required. N.Y. Lab. Law § 860-d; 12 N.Y.C.R.R. § 921-3.1.
- **Faltering Company:** 90 days' notice before a Plant Closing is not required if (1) at the time notice would ordinarily be required, the Covered Employer was actively seeking financing or new business that would have enabled the Covered Employer to avoid or postpone the Plant Closing, and (2) the Covered Employer reasonably and in good faith believed that giving 90 days' notice would have prevented them from obtaining the financing or new business. The Faltering Company exception only applies to Plant Closings, so Covered Employers cannot use it to avoid giving 90 days' notice of other triggering events. Notably, Covered Employers can only rely on this exception if they first obtain pre-approval to do so from the New York Department of Labor. Covered Employers can apply for pre-approval by submitting a request to the NYDOL no more than 10 business days after sending the NYDOL the required WARN notice. 12 N.Y.C.R.R. §§ 921- 6.6.
- **Temporary Facility/Project Completion:** 90 days' notice is not required if the triggering event is the result of the closing of a temporary facility or the completion of a particular project or undertaking, and the Affected Employees were hired with the understanding that their employment was limited to the duration of the temporary facility, project, or undertaking.
- **Natural Disaster:** 90 days' notice is not required if the triggering event is necessitated by any form of natural disaster. To qualify for this exception, a Covered Employer must be able to demonstrate that the triggering event was a direct result of the natural disaster. N.Y. Lab. Law § 860-c(1)(d); 12 N.Y.C.R.R. § 921-6.4. Notably, Covered Employers can only rely on this exception if they first obtain pre-approval to do so from the New York Department of Labor. Covered Employers can apply for pre-approval by submitting a request to the NYDOL no more than 10 business days after sending the NYDOL the required WARN notice. 12 N.Y.C.R.R. §§ 921- 6.6.
- **Physical Calamity/Act of Terrorism or War:** 90 days' notice is not required if the triggering event is necessitated by physical calamity or act of terrorism or war. N.Y. Lab. Law § 860-b(3). These terms are not defined by New York law.

Notice Content

- Covered Employers must provide notices to (1) Affected Employees, (2) any representatives of Affected Employees (e.g., union representatives), (3) the New York Department of Labor, (4) any Local Workforce Investment Boards or Workforce Development Boards that oversee the area where the triggering event occurs, (5) the chief elected official of the local government in which the triggering event occurs, (6) the school district(s) in which the triggering event occurs, and (7) each locality that provides police, firefighting, or other emergency services to the location where the triggering event occurs.

Action

- Provide WARN notices for mass layoffs



- Notice delivered to Affected Employees must include:
 - The name (complete legal business name and any business names used in the operation of the business), the address of the employment site where the planned action will occur, the expected date of the first separation of employees, and the date when the individual employee will be separated;
 - A statement as to whether the planned action is expected to be permanent or temporary, and whether the entire plant is to be closed. If the planned action is expected to affect identifiable units of employees differently (e.g., should the employer expect a layoff of one unit to be temporary and the layoff of another unit to be permanent), the notice shall so indicate;
 - A statement as to whether bumping rights exist;
 - The name, business address, telephone number, and email of an employer agent to contact for further information;
 - Information concerning unemployment insurance, job training, and re-employment services for which affected employees may be eligible. Such information shall, at a minimum, include the following notice: "You are also hereby notified that, as a result of your employment loss, you may be eligible to receive job retraining, re-employment services, or other assistance with obtaining new employment from the New York State Department of Labor or its workforce partners upon your termination. You may also be eligible for unemployment insurance benefits after your last day of employment. Whenever possible, the New York State Department of Labor will contact your employer to arrange to provide additional information regarding these benefits and services to you through workshops, interviews, and other activities that will be scheduled prior to the time your employment ends. If your job has already ended, you can also access reemployment information and apply for unemployment insurance benefits on the Department's website, or you may use the contact information provided on the website or visit one of the Department's local offices for further information and assistance."; and
 - Any additional information known at the time of the notice and relevant to the separation, including but not limited to information on severance packages or financial incentives if the employee remains and works until the effective date of the planned action, available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration. 12 N.Y.C.R.R. § 921-2.3(b).
-
- Notice delivered to representatives of Affected Employees must include:
 - The name (complete legal business name and any business names used in the operation of the business) and address of the employment site where the plant closing, mass layoff, relocation or covered reduction in work hours will occur;
 - The name, business address, telephone number, and email of the employer agent to contact for further information;
 - A statement as to whether bumping rights exist; A statement as to whether the planned action is expected to be permanent or temporary, and whether the entire plant is to be closed. If the planned action is expected to affect identifiable units of employees differently (e.g. should the employer expect a layoff of one unit to be temporary and the layoff of another unit to be permanent), the notice shall so indicate;
 - The expected date of the first separation of employees and the anticipated schedule of any additional separations;
 - The name, address (including home address), personal telephone number, personal email (if known), work location, and job title of the employees to be laid off;
 - Information concerning unemployment insurance, job training, and re-employment services for which affected employees may be eligible. Such information shall, at a minimum, include the following notice: "You are also hereby notified that, as a result of their employment loss, individuals represented by you may be eligible to receive job retraining, re-employment services, or other assistance with obtaining new employment upon termination. These individuals may also be eligible for

Action

- Provide WARN notices for mass layoffs



- unemployment insurance benefits after their last day of employment. Whenever possible, the New York State Department of Labor will contact their employer to arrange to provide additional information regarding these benefits and services to these individuals through workshops, interviews, and other activities that will
- A statement as to whether the other notices required under NY WARN have been given, including the date notices were sent; and
- A statement as to the means of delivery utilized to deliver notice to affected employees.

Notice delivered to the New York Department of Labor must include:

- The name (complete legal business name and any business names used in the operation of the business) and address of the employment site(s) where the plant closing, mass layoff, relocation or covered reduction in work hours will occur;
- The name, business address, telephone number, and email of an employer agent to contact for further information;
- The name, business address, telephone number, and email of an employee representative to contact for further information, including the name of each employee representative of affected employees and the name, business address, telephone number, and email of the chief elected officer of each such employee representative;
- The name, business address, telephone number, and email of the employer's liaison with the NYSDOL for purposes of providing rapid response services to affected employees;
- For each employee to be laid off (using the NYSDOL's template spreadsheet) their name, address (including home address), personal telephone number, personal email (if known), job title, work location, whether paid hourly, salary, or commission, whether part-time or full-time, and any affiliation to an employee representative;
- The expected date of the first separation of each employee and the anticipated schedule of any additional separations;
- A statement as to whether bumping rights exist;
- A statement as to whether the planned action is expected to be permanent or temporary, and whether the entire plant is to be closed. If the planned action is expected to affect identifiable units of employees differently (e.g., should the employer expect a layoff of one unit to be temporary and the layoff of another unit to be permanent,) the notice shall so indicate;
- A statement as to whether the other notices required under NY WARN have been given, including the date notices were sent;
- A statement as to the means of delivery utilized to deliver notice to affected employees;
- A sample of the notice provided to employees and to the employee representative(s);
- The total number of full-time employees (presumably as defined by NY WARN) in New York State and at each affected site, as well as the number of affected employees at each affected site;
- The total number of part-time employees (presumably as defined by NY WARN) in New York State and at each affected site, as well as the number of affected employees at each affected site; and
- Any additional information required by the NYSDOL. 12 N.Y.C.R.R. § 921-2.3(a).

Action

- Provide WARN notices for mass layoffs



- Notices delivered to local boards, local chief elected officials, school districts, and localities must include:
- The name (complete legal business name and any business names used in the operation of the business) and address of the employment site where the plant closing, mass layoff, relocation or covered reduction in work hours will occur;
- The name, business address, telephone number(s), and email address(es) of the employer agent to contact for further information;
- The name and telephone number of the employee representative to contact for further information;

A statement as to whether the planned action is expected to be permanent or temporary (see Mass Layoff above), and whether the entire plant is to be closed. If the planned action is expected to affect identifiable units of employees differently (e.g., should the employer expect a layoff of one unit to be temporary and the layoff of another unit to be permanent,) the notice shall so indicate;

- The expected date of the first separation of employees, and the anticipated schedule of any additional separations;
- The job titles of positions to be affected, and the number of affected employees in each job title;
- A statement as to whether bumping rights exist;
- The name of each union representing affected employees, and the name, address, telephone number, and email address of the chief elected officer of each such union; (i) A statement as to whether the other notices required have been given, including the date notices were sent; and
- A statement as to the means of delivery utilized to deliver notice to affected employees. 12 N.Y.C.R.R. § 921-2.3(d).

Severance Agreements

- Employers may include non-compete provisions in severance agreements, but they are only enforceable if the employee was terminated for cause.
- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In New York, the state law claims that may be released are those under the [New York State Human Rights Law](#), the equal pay provisions of New York Labor Law, New York's leave laws, the [Stop Hacks and Improve Electronic Data Security Act](#), the [New York State Wage Theft Prevention Act](#), and New York's [minimum wage and overtime laws](#).
- In New York, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing facts related to a sexual harassment dispute or sexual assault dispute, or from speaking with law enforcement, human rights agencies, or an attorney retained by an employee.
- It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.
- Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in New York (such as when the organization separates from its last New York employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Surrender of Authority](#). For-Profit Corporations must also obtain consent to withdraw from the New York State Tax Commission, which can be requested by calling the Commission at (518) 485-2639.
- Non-Profit Corporations must file this [Certificate of Surrender of Authority](#). Non-Profit Corporations must also obtain consent to withdraw from the New York State Tax Commission, which can be requested by calling the Commission at (518) 485-2639.
- Limited Liability Companies (LLCs) must file this [Certificate of Surrender of Authority](#).

Action

- Report employee termination

Action

- Report employee termination

Action

- Withdraw your registration to do business in New York (if applicable)



Final Paycheck Requirements

North Carolina state law requires that employees who separate from their employer be paid according to the following schedule:

- **Termination Payment:** Employees who are terminated must be paid on the next scheduled payday. Wages based on bonuses or commissions must be paid on the first payday after the amount owed is determined.
- **Resignation Payment:** Employees who resign their employment must be paid on the next scheduled payday. Wages based on bonuses or commissions must be paid on the first payday after the amount owed is determined.
- **Final Wage Amount:** Employees must be paid all wages due.
- **Payout of Unused Vacation:** All accrued and unused vacation time must be paid upon separation unless the employer states in a written policy or contract that this leave is not paid upon separation.
- **Final Paycheck Location:** Employees must be paid through regular pay channels or by trackable mail if requested by the employee in writing.
- **Failure to Pay Wages Penalties:** Employers who fail to pay wages may be required to pay the unpaid wages plus interest for each day the wages remain unpaid. If the employee is forced to recover wages in court, employers may be liable for the employee's attorney's fees and costs.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In North Carolina, the state law claims that may be released are those under the North Carolina Equal Employment Practices Act, North Carolina People With Disabilities Protection Act, Retaliatory Employment Discrimination Act, Identity Theft Protection Act, North Carolina's minimum wage and overtime laws, and North Carolina's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



Withdraw Registration to do Business

Once an organization stops doing business in North Carolina (such as when the organization separates from its last North Carolina employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Application for Certificate of Withdrawal](#).

Action

- Withdraw your registration to do business in North Carolina (if applicable)

Final Paycheck Requirements

North Dakota state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages due.
- Payout of Unused Vacation: All earned, unused leave must be paid upon termination. However, for employees who voluntarily separate from employment, employers may revoke payment for unused leave if (1) the employer gave the employee notice about the revocation policy at the time of hiring, (2) the employee has been with the company for less than a year, and (3) the employee gave fewer than 5 days' notice of their separation.
- Final Paycheck Location: Employees must be paid by certified mail at the employee's designated address or as otherwise agreed upon by both parties.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and up to an additional 30 days' wages at the employee's regular pay rate.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In North Dakota, the state law claims that may be released are those under the North Dakota Human Rights Act, North Dakota Equal Pay Act, North Dakota's minimum wage and overtime laws, and North Dakota's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

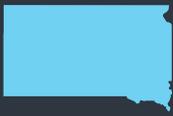
- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



Withdraw Registration to do Business

Once an organization stops doing business in North Dakota (such as when the organization separates from its last North Dakota employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must apply for a Certificate of Withdrawal using [North Dakota's online portal](#).

Action

- Withdraw your registration to do business in North Dakota (if applicable)



Final Paycheck Requirements

Ohio state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 15 days, whichever is earlier.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 15 days, whichever is earlier.
- Final Wage Amount: Employees must be paid the net amount of money payable to an employee, including guaranteed pay or reimbursement.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation unless the employer clearly states in a written policy or contract that this leave is not paid upon separation.
- Final Paycheck Location: Ohio law does not specify how final wages must be paid but it is a best practice to provide them through the usual payment methods.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and the greater of (1) 6% of the unpaid wages for every day they remain unpaid or (2) \$200.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

Ohio requires all employers that provide a group health insurance plan to notify involuntarily terminated employees at the time of termination of their right to continue coverage under Ohio’s state-level COBRA law. The notice must include the amount of the monthly premium payment that would be required for the employee to continue coverage.

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Ohio, the state law claims that may be released are those under the Ohio Civil Rights Act, Ohio’s leave laws, and Ohio’s minimum wage and overtime laws.

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Ohio (such as when the organization separates from its last Ohio employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity. For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Surrender](#). Corporations must also submit a Certificate of Clearance from the Ohio Department of Taxation, which can be obtained via [this form](#).

- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Check that the provisions in severance agreements are enforceable

Final Paycheck Requirements

Oklahoma state law ([§ 40-165.3](#)) requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages in full, less offsets and any amount over which a bona fide disagreement exists.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Employees must be paid through the regular pay channels or by mail, if so requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and the smaller of (1) 2% of the unpaid wages for each day they remain unpaid or (2) an amount equal to the unpaid wages.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Oklahoma, the state law claims that may be released are those under the [Oklahoma Anti-Discrimination Act](#), [Oklahoma Protection of Labor Act](#), and Oklahoma's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Report employee termination



Withdraw Registration to do Business

Once an organization stops doing business in Oklahoma (such as when the organization separates from its last Oklahoma employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Application for Withdrawal](#).

Action

- Withdraw your registration to do business in Oklahoma (if applicable)



Final Paycheck Requirements

Oregon state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid by the end of the next business day.
- Resignation Payment: Employees who resign their employment must be paid immediately if the employee provides at least 48 business hours' notice of their resignation. If no notice is given, departing employees must be paid within five days or on the next scheduled payday, whichever is earlier.
- Final Wage Amount: Employees must be paid all wages earned and unpaid at the time of separation.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Employees must be paid through the regular pay channels or by mail, if so requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and u

Separation Notice

Oregon law requires employers that have non-compete agreements with departing employees are provide a signed, written copy of the terms of the agreement to the employee within 30 days of termination.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Oregon, the state law claims that may be released are those under the Oregon Equality Act, Oregon Workplace Religious Freedom Act, Oregon Workplace Fairness Act, Oregon Equal Pay Act, Oregon Pregnancy Accommodation Law, Oregon Identity Theft Protection Act, Oregon Family Leave Act and Oregon's other leave laws, Oregon's predictive scheduling laws, and Oregon's minimum wage and overtime laws.

In Oregon, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing workplace conduct if the conduct discussed constitutes (1) discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, age, or expunged juvenile record, (2) sexual harassment or sexual assault, (3) discrimination against a person for service in the armed forces, or (4) discrimination on the basis of disability. It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable



Oregon WARN Act

Oregon employers subject to the federal WARN Act must provide additional notification to the Department of Community Colleges and Workforce Development when carrying out a mass layoff.

Report Employee Termination

If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Oregon (such as when the organization separates from its last Oregon employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this Application for Withdrawal.
- Non-Profit Corporations must file this Application for Withdrawal.
- Limited Liability Companies (LLCs) must file this Application for Withdrawal.

Action

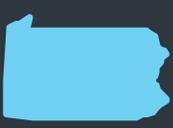
- Provide WARN notices for mass layoffs

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Oregon (if applicable)



Final Paycheck Requirements

Pennsylvania state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages or compensation earned.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Employees must be paid through the regular pay channels or by mail, if so requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and the greater of (1) 25% of the total unpaid wages or (2) \$500. Further, failure to pay wages may be subject to criminal penalties up to \$300 in fines, 90 days' imprisonment, or both for each offense.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in Pennsylvania who separate from employment must be notified of the availability of unemployment compensation and provided a completed Form UC-1609 – Employer Information. Pennsylvania also requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Pennsylvania's state-level COBRA law within 30 days of separation. Pennsylvania provides a model notice for employers to use in complying with this requirement.

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Pennsylvania, the state law claims that may be released are those under the Pennsylvania Human Relations Act, Pennsylvania's Equal Pay Law, Pennsylvania's Wage Payment and Collection Law, Pennsylvania's Personnel File Inspection Act, Pennsylvania's minimum wage and overtime laws, and Pennsylvania's leave laws.

Action

- Check that the provisions in severance agreements are enforceable

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later. Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

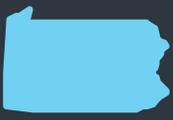
Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

Action

- Report employee termination

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Pennsylvania (such as when the organization separates from its last Pennsylvania employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#) along with tax clearance certificates from the Pennsylvania Departments of Revenue and Labor. Instructions for obtaining the necessary tax certificates can be found [here](#).

Action

- Withdraw your registration to do business in Pennsylvania (if applicable)



Final Paycheck Requirements

Rhode Island state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday. When an employer separates an employee from the payroll as a result of the employer liquidating the business, merging the business, disposing the business, or removing the business out of state, all wages become immediately due and payable within 24 hours of the time of separation at the usual place of payment.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all earned wages.
- Payout of Unused Vacation: All earned, unused leave must be paid upon separation to employees who have been at the company for at least one year.
- Final Paycheck Location: Employees must be paid through the regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages are guilty of a misdemeanor. In addition to liability for the unpaid wages, employers may also be criminally liable for up to \$400 in fines, one year's imprisonment, or both for each offense. Significantly, each day wages are unpaid constitutes a separate offense.

Separation Notice

All employers in Rhode Island are required to notify separated employees of the potential availability of unemployment compensation benefits at the time of separation. Rhode Island provides sample notice language for employers to use in complying with this requirement.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Rhode Island, the state law claims that may be released are those under the Rhode Island Fair Employment Practices Act, Civil Rights of People with Disabilities Act, Rhode Island Civil Rights Act, Rhode Island Parental and Family Medical Leave Act and other leave laws, Rhode Island's Employee Privacy laws, and Rhode Island's minimum wage and overtime laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Rhode Island (such as when the organization separates from its last Rhode Island employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Withdrawal](#) and certify that it has paid all required state taxes. For-Profit Corporations can check their tax status by emailing tax_collections@tax.ri.gov.
- Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#) and certify that it has paid all required state taxes. LLCs can check their tax status by emailing tax_collections@tax.ri.gov.

Action

- Withdraw your registration to do business in Rhode Island (if applicable)



Final Paycheck Requirements

- [South Carolina state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid “within forty-eight hours of the time of separation or the next regular payday which may not exceed thirty days.”
- Resignation Payment: South Carolina law does not specify how soon employees must be paid after resignation, but it is a best practice to provide final payment on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages due.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: South Carolina law does not specify how final wages must be paid but it is a best practice to provide it through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and, if the employee recovers their wages in a civil action, up to three times their unpaid wages plus attorney’s fees and costs.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in South Carolina who separate from employment must be provided a [Notice of the Availability of Unemployment Insurance Benefits](#) upon separation. South Carolina also requires all employers that offer group health insurance to “clearly and meaningfully advise” separated employees of their right to continue coverage under South Carolina’s state-level COBRA law as well as “the amount of premium required” and “the employee’s responsibility to pay the premium each month before the date that the policy month begins” at the time of separation.

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In South Carolina, the state law claims that may be released are those under the [South Carolina Human Affairs Law](#), [South Carolina Bill of Rights for Handicapped Persons](#), [South Carolina Pregnancy Accommodation Act](#), and [South Carolina Payment of Wages Act](#).

Action

- Check that the provisions in severance agreements are enforceable

It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

Action

- Report employee termination

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in South Carolina (such as when the organization separates from its last South Carolina employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Surrender](#).
- Non-Profit Corporations must file this [Application for Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Check that the provisions in severance agreements are enforceable

Final Paycheck Requirements

South Dakota state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or when the employee returns employer property in their possession.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or when the employee returns employer property in their possession.
- Final Wage Amount: Employees must be paid all wages or compensation earned.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: South Dakota law does not specify how final wages must be paid but it is a best practice to provide it through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages, damages up to double the amount owed, and attorney's fees and costs if the employee is forced to recover wages in court. Further, willful failure to pay wages is a Class 2 misdemeanor punishable by up to \$500 in fines, 30 days' imprisonment, or both.

Separation Notice

All employees in South Dakota who separate from employment must be provided with the "Notice to Employees: Availability of Unemployment Compensation" form at the time of separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In South Dakota, the state law claims that may be released are those under the South Dakota Human Relations Act, South Dakota's leave laws, and South Dakota's minimum wage and overtime laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with Income Withholding for Support Order ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

Action

- Confirm any departing employee is timely paid their final earned wages

Action

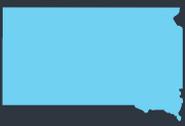
- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in South Dakota (such as when the organization separates from its last South Dakota employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Certificate of Withdrawal](#).
- Non-Profit Corporations must file this [Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Withdraw your registration to do business in South Dakota (if applicable)

Final Paycheck Requirements

- [Tennessee state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 21 days following termination, whichever is earlier.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 21 days following resignation, whichever is earlier.
- Final Wage Amount: Employees must be paid all earned wages.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Tennessee law does not specify how final wages must be paid but it is a best practice to provide it through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages commit a Class B misdemeanor and may be required to pay the unpaid wages and fines of up to \$500 for each offense. Further, willful failure to pay wages may be punishable by a fine of up to \$1,000 for each offense.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employees in Tennessee who separate from employment must be provided a [Form LB-0489 – Separation Notice](#) within one day of separation, unless the employee has been employed for less than a week or will be recalled within a week.

Action

- Check that you are providing all required notices upon separation

Tennessee WARN Act

General Statement

Covered Employers must provide affected employees with notice of any permanent or indefinite Reduction in Operations that affects 50 or more employees.

Definitions

A "Covered Employer" is any organization that employs between 50 and 99 full-time employees at a single workplace in Tennessee. Tenn. Code Ann. § 50-1-601.

Tennessee law does not specifically define who qualifies as an "Affected Employee." However, the state likely follows the federal definition, which states that an "Affected Employee" is any employee who is expected to lose their employment as a result of the triggering event.

Triggering Events

A "Reduction in Operations" is any of the following:

- A closure of a workplace, or a portion of the operations in a workplace that results in a permanent or indefinite reduction in number of employees at the workplace of 50 or more during any three-month period;
- A modernization of a workplace, or a portion of the operations in the workplace, that results in a permanent or indefinite reduction in number of employees at the workplace of 50 or more during any three-month period;
- A relocation of a workplace, or a portion of the operations in the workplace, to another site located more than fifty (50) miles from the workplace, that results in a permanent or indefinite reduction in number of employees at the workplace of 50 or more during any three-month period; or

Action

- Provide WARN notices for mass layoffs

- The implementation or application of any management policy within a workplace, that results in a permanent or indefinite reduction in number of employees at the workplace of 50 or more during any three-month period; Tenn. Code Ann. § 50-1-601(2)
- Events that Do Not Trigger WARN
- Covered Employers are not required to deliver notice of any Reduction in Operations that:
 - Results solely from a labor dispute;
 - Occurs at a construction site or other temporary workplace; or
 - Results from seasonal factors. Tenn. Code Ann. § 50-1-603

Notice Timing

- Tennessee law does not specify when employers are required to deliver WARN notices, and it does not even state that notices must be given in advance. As such, Covered Employers are likely permitted to deliver the required notices at any time. Tenn. Code Ann. § 50-1-602
- Unlike other states, Tennessee does not have any exceptions that allow Covered Employers to avoid giving WARN notices when Triggering Events occur.

Notice Content

- Covered Employers must provide notices to (1) affected employees and (2) the Tennessee Commissioner of Labor and Workforce Development. Notably Tennessee law states that Covered Employers should deliver notice to the Commissioner via telephone. Tenn. Code Ann. § 50-1-602(a).
- Tennessee does not specify what Covered Employers have to include in their notices to either affected employees or the Commissioner of Labor and Workforce Development. Tenn. Code Ann. § 50-1-602

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Tennessee, the state law claims that may be released are those under the [Tennessee Human Rights Act](#), [Tennessee Disability Act](#), [Tennessee Pregnant Workers Fairness Act](#), [Tennessee Drug-Free Workplace Act](#), [Tennessee Equal Pay Act](#), [Tennessee Public Participation Act](#), [Tennessee Wage Regulation Act](#), and Tennessee's leave laws.

In Tennessee, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing or discussing conduct that constitutes sexual harassment or sexual assault in the workplace under federal, state, or tribal law

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Tennessee (such as when the organization separates from its last Tennessee employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

Action

- Report employee termination

Action

- Withdraw your registration to do business in Tennessee (if applicable)



Final Paycheck Requirements

- [Texas state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are involuntarily separated must be paid within six calendar days.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all wages earned based on time, task, piece, commission, or other basis.
- Payout of Unused Vacation: Employers are not required to pay earned vacation, holiday, sick leave, parental leave, or severance leave pay upon separation unless the employer provides for a payout of these benefits in a written policy or agreement.
- Final Paycheck Location: Texas law does not specify how final wages must be paid but it is a best practice to provide it through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and administrative penalties up to \$1,000 if the employer is found to have acted in bad faith

Action

- Provide WARN notices for mass layoffs

Separation Notice

All employers in Texas are required to notify separated employees of the availability of Unemployment Benefits at the time of separation. Texas law provides that employers can satisfy this requirement by providing a separated employee with an individual copy of [Texas' Unemployment Benefits Poster](#).

Action

- Check that you are providing all required notices upon separation

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Texas, the state law claims that may be released are those under the [Texas Commission on Human Rights Act](#) (Chapter 21 of the Texas Labor Code), [Texas Payday Law](#), Texas' leave laws, and Texas' [minimum wage](#) and overtime laws.

Action

- Check that the provisions in severance agreements are enforceable

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

Action

- Report employee termination

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:



- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Texas (such as when the organization separates from its last Texas employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file this [Certificate of Withdrawal](#). For-Profit Corporations and LLCs must also submit a certificate of account status from the Texas Comptroller of Public Accounts showing that all state taxes have been paid. Instructions for obtaining the necessary tax certificate are available on the [Certificate of Withdrawal](#).

Action

- Withdraw your registration to do business in Texas (if applicable)

Final Paycheck Requirements

- [Utah state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid within 24 hours.
- Resignation Payment: Employees who resign their employment must be paid by the next scheduled payday.
- Final Wage Amount: Employees must be paid all earned wages.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Employees must be paid at their specified place of payment.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages, up to an additional 60 days' wages at the employee's regular pay rate, a daily penalty of 5% of the owed wages (up to 20 days), and fines up to \$500 for each offense.

Separation Notice

Utah requires employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Utah's state-level COBRA law within 30 days of separation. This notice must also inform the separated employee of the payment amounts that are required to continue coverage, as well as the time, place, and manner in which such payments must be made. Utah requires this notice to be sent to the separated employee's home address via first-class mail.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Utah, the state law claims that may be released are those under the [Utah Antidiscrimination Act](#), [Employment Relations and Collective Bargaining Act](#), [Utah Right to Work Law](#), [Utah Drug and Alcohol Testing Act](#), [Utah Minimum Wage Act](#), [Utah Protection of Activities in Private Vehicles Act](#), [Utah Employment Selection Procedures Act](#), [Utah Occupational Safety and Health Act](#), and Utah's leave laws.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Report employee termination



Withdraw Registration to do Business

Once an organization stops doing business in Utah (such as when the organization separates from its last Utah employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Withdrawal of Registration](#)

Action

- Withdraw your registration to do business in Utah (if applicable)



Final Paycheck Requirements

Vermont state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid within 72 hours.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or the next Friday if there is no scheduled payday.
- Final Wage Amount: Employees must be paid all earned wages.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Employees must be paid through the regular pay channels or any other method described in 21 V.S.A. Sec. 342.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages and a civil penalty up to \$100 for each violation.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

All employers in Vermont are required to notify separated employees of the availability of unemployment compensation at the time of separation. Employers can comply with this requirement using a notice that tracks model language issued by the U.S.

Department of Labor. Vermont also requires all employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Vermont's state-level COBRA law within 30 days of separation.

Action

- Check that you are providing all required notices upon separation

Vermont WARN Act

General Statement

Covered Employers must give Affected Employees either 30 or 45 days' notice before a Business Closing or Mass Layoff that affects 50+ employees.

Definitions

A "Covered Employer" is any organization that employs (1) 50 or more full-time employees, (2) 50 or more part-time employees who work at least 1,040 hours per employee per year, or (3) a combination of 50 or more (i) full time employees and (ii) part-time employees who work at least 1,040 hours per employee per year. 21 V.S.A. § 411(5); 24-010-013 Vt. Code R. §§ 3(6)(A)-(B).

An "Affected Employee" is any employee who may be expected to experience an Employment Loss as a consequence of the Business Closing or Mass Layoff.

- An "Employment Loss" is any termination of employment that is the direct result of a Business Closing or Mass Layoff. It is not an Employment Loss if prior to the WARN notice being given, the employee voluntarily leaves employment, retires, or is terminated by the employer for unsatisfactory performance or misconduct. 21 V.S.A. § 411(6).

Action

- Provide WARN notices for mass layoffs

Triggering Events

- A "Business Closing" is (1) the permanent shutdown of a facility (regardless of the number of employees affected), (2) the permanent cessation of operations at one or more worksites in Vermont that results in an Employment Loss for 50+ employees, or (3) any cessation of operations for a period of 90 days or more that affects 50+ employees.



- A "Mass Layoff" means a permanent Employment Loss for 50+ employees at one or more worksites in Vermont during any 90-day period.

Events that Do Not Trigger WARN

- "Sale of Business": Vermont law does not expressly address the sale of a business, but based on the statute's similarity to the federal WARN Act, it is likely the same exception applies. According to federal WARN, in the case of a sale of business the technical employment termination of employees transferring from the seller-employer to the buyer-employer is not a WARN event and doesn't trigger notice obligations. 20 C.F.R. § 639.6. However, if the Sale of Business involves a Mass Layoff (i.e., if 50+ employees will permanently lose their employment as a result of the sale), notice is still required. Both the seller and the purchaser of the business must deliver the required notice in these circumstances. 21 V.S.A. § 413(d).
- "Strike/Lockout": Covered Employers are not required to comply with the statute's notice requirements if the Mass Layoff or Business Closing is caused by a strike or lockout. 21 V.S.A. § 414(a)(1).

• Notice Timing

- Notice must be delivered to the Vermont Commissioner of Labor and Secretary of Commerce and Community Development at least 45 days before the Business Closing or Mass Layoff occurs. Notice to Affected Employees, representatives of Affected Employees, and the chief elected official of the municipality where the Business Closing or Mass Layoff occurs at least 30 days before the Business Closing or Mass Layoff occurs. 21 V.S.A. § 413(b); 24-010-013 Vt. Code R. § 4(a)

At the time the Covered Employer delivers notice to Affected Employees (typically 30 days before the Triggering Event), the employer must send a second written notice to the Vermont Commissioner of Labor that states:

- The actual number of layoffs;
- The actual job titles of employees subject to the layoff;
- The date of the layoff; and
- Other information as the Commissioner deems necessary for the purposes of unemployment insurance benefit processing and for accessing federal and state resources to mitigate adverse employment impacts affecting employers, employees, and communities. 21 V.S.A. § 413(c)

Because it is not always possible to know in advance whether Mass Layoffs or Business Closings will occur, the Act contemplates the following exceptions to the 30- and 45-day requirements. If an exception applies, the Covered Employer is not required to deliver notice 30 or 45 days in advance and must instead deliver notice "as soon as is practicable."

- Unforeseeable Business Circumstances: 30 or 45 days' notice is not required if the Mass Layoff or Plant Closing was not reasonably foreseeable at the time Notice would have ordinarily been required. 21 V.S.A. § 414(a)(3).
- Faltering Company: 30 or 45 days' notice before a Business Closing or Mass Layoff is not required if (1) at the time notice would ordinarily be required, the Covered Employer was actively seeking financing or new business that would have enabled the Covered Employer to avoid or postpone the Business Closing, and (2) the Covered Employer reasonably and in good faith believed that giving the required notice would have prevented them from obtaining the financing or new business. 21 V.S.A. § 414(a)(2); 24-010-013 Vt. Code R. § 7(b)(1).

Action

- Confirm any departing employee is timely paid their final earned wages



Natural Disaster: 30 or 45 days' notice is not required if the Business Closing or Mass Layoff is necessitated by any form of natural disaster. To qualify for this exception, a Covered Employer must be able to demonstrate that the Business Closing or Mass Layoff is a direct result of the natural disaster and that the Covered Employer provided as much advance notice as was practicable. 21 V.S.A. § 414(a)(4); 24-010-013 Vt. Code R. § 7(d)(1).

- The names and addresses of the affected employees and their job titles;
- A statement indicating whether the other notices required by statute will be given, including the date the notice was or will be given; and
- A statement indicating the method of delivery used to give notice to the affected employees; 24-010-013 Vt. Code R. § 6(d).

Notices delivered to the chief elected official or administrative officer of the municipality within which the Business Closing or Mass Layoff will occur must include:

- The name and address of the employment site where the anticipated business closing or mass layoff will occur;
- The expected first date of separation of employees and the anticipated schedule of separations;
- A list of the broad occupational categories that are affected by the layoff or closing, and general information regarding the number of employees affected; and
- A statement indicating whether the planned action is expected to be permanent or temporary, and whether the entire worksite is to be closed. The notice must state whether the planned action is expected to affect identifiable units of employees differently. 24-010-013 Vt. Code R. § 6(e).

Notices to the Vermont Secretary of Commerce and Community Development and the Vermont Commissioner of Labor must include:

- The name and address of the employment site where the business closing or mass layoff will occur;
- The name and telephone number of an employer representative to contact for further information;
- The name and telephone number of an employee representative to contact for further information;
- The name of the employer's liaison with the Department for the purpose of providing rapid response to the affected employees;
- The name, job title, mailing address, telephone number, and email, if applicable, of each affected employee;
- The expected first date of separation of employees and the anticipated schedule of separations;
- A statement indicating whether bumping rights exist;
- A statement indicating whether the planned action is expected to be permanent or temporary, and whether the entire worksite is to be closed. The notice must state whether the planned action is expected to affect identifiable units of employees differently;
- A statement indicating whether the other notices required by statute will be given, including the date the notice was or will be given;
- A statement indicating the method of delivery used to give notice to the affected employees; and
- A sample of the notice provided to the affected employees. 24-010-013 Vt. Code R. § 6(b).

Action

- Confirm any departing employee is timely paid their final earned wages



Severance Agreements

- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Vermont, the state law claims that may be released are those under the Vermont’s anti-discrimination laws, Vermont’s equal pay law, Vermont’s leave laws, and Vermont’s minimum wage and overtime laws.
- In Vermont, non-disparagement clauses included as part of severance agreements can’t restrict employees from opposing, disclosing, reporting, or participating in an investigation of sexual harassment or sexual assault.
- It’s important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.
- Employers must also remember to review applicable federal laws. In particular, the NLRB’s recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

- If you have an employee with Income Withholding for Support Order (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement here.
- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
 - Employee Name
 - Employee Case Identifier
 - Last Known Home Address
 - New Employer Address (if known)
 - Date of Separation

Action

- Report employee termination

Withdraw Registration to do Business

Once an organization stops doing business in Vermont (such as when the organization separates from its last Vermont employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) can access and file the necessary documents via Vermont’s online portal.

Action

- Withdraw registration to do business in Vermont (if applicable)



Final Paycheck Requirements

Virginia state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Final Wage Amount: Employees must be paid all earned wages.
- Payout of Unused Vacation: Employers are not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it.
- Final Paycheck Location: Virginia law does not specify how final wages must be paid but it is a best practice to provide them through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages may be required to pay the unpaid wages, and an additional amount equal to the wages owed, 8% annual interest on the unpaid wages, and a civil penalty up to \$1,000 for each violation. Further, employers that fail to pay wages may be found guilty of up to a Class 6 felony (depending on the value of unpaid wages), which is punishable by up to five years' imprisonment.

Separation Notice

Virginia requires all employers that provide a group health insurance plan and have fewer than 20 employees to notify separated employees of their right to continue coverage under Virginia's state-level COBRA law as well as the procedures and timeframes for obtaining continued coverage within 14 days of separation.

Virginia employers must provide a "Notice to Workers" of their unemployment compensation benefits upon separation (available in English, Spanish, Amharic, Korean, Vietnamese, Arabic, and Chinese (simplified)).

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Virginia, the state law claims that may be released are those under the Virginia Human Rights Act, Virginians with Disabilities Act, Virginia Equal Pay Act, Virginia Wage Payment Act, Virginia's leave laws, and Virginia's minimum wage and overtime laws.

In Virginia, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing details relating to a claim or dispute of sexual harassment or sexual assault under federal law, tribal law, or Virginia Code §§ 18.2-61, 18.2-67.1, 18.2-67.3, or 18.2-67.4. It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable



Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Virginia (such as when the organization separates from its last Virginia employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Certificate of Cancellation](#).

Action

- Report terminated employees

Action

- Withdraw registration to do business in Virginia (if applicable)



Final Paycheck Requirements

- [Washington state law](#) requires that employees who separate from their employer be paid according to the following schedule:
- Termination Payment: Employees who are terminated must be paid on the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday.
- Commission Payment: Upon termination of a sales contract, all earned commissions due to a sales representative must be paid within 30 days after the employer receives payment for the products or goods sold.
- Final Wage Amount: Employees must be paid all wages due on account of their employment.
- Payout of Unused Vacation: Employers are generally not required to pay out accrued and unused vacation time upon separation unless the employee contract or employer policy requires it. Accrued and unused sick leave must be paid out upon separation for most temporary construction workers who work for fewer than 90 days for an employer.
- Final Paycheck Location: Washington law does not specify how final wages must be paid but it is a best practice to provide them through regular pay channels. Failure to Pay Wages Penalties: Employers who fail to pay wages will be required to pay the unpaid wages and are guilty of a misdemeanor. Employees who prevail in a court action to recover wages are owed attorney's fees and costs. Further, employers who willfully fail to pay wages may be subject to civil penalties up to \$20,000.

Action

- Confirm any departing employee is timely paid their final earned wages

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Washington, the state law claims that may be released are those under the [Washington Law Against Discrimination](#), [Washington's Equal Pay and Opportunities Act](#), [Washington's Fair Chance Act](#), Washington's leave laws, and Washington's [minimum wage](#) and overtime laws.

In Washington, non-disparagement clauses included as part of severance agreements can't restrict employees from disclosing conduct reasonably believed to be illegal discrimination, harassment, retaliation, a wage and hour violation, or sexual harassment or sexual assault.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Check that the provisions in severance agreements are enforceable

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

Action

- Report terminated employees



You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Withdraw Registration to do Business

Once an organization stops doing business in Washington (such as when the organization separates from its last Washington employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State.

- For-Profit Corporations, Non-Profit Corporations, and Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#). For-Profit and Non-Profit Corporations must also submit a [Revenue Clearance Certificate](#) from the Washington Department of Revenue showing that all state taxes have been paid.

Action

- Report terminated employees

Action

- Withdraw your registration to do business in Washington (if applicable)



Final Paycheck Requirements

West Virginia state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid by the next scheduled payday.
- Resignation Payment: Employees who resign their employment must be paid by the next scheduled payday.
- Final Wage Amount: Employees must be paid all earned wages in full.
- Payout of Unused Vacation: All earned, unused leave must be paid upon separation unless the employer has a written policy stating that leave will not be paid out. Employees must be provided a copy of any vacation policy in writing or by posted notice.
- Final Paycheck Location: Employees must be paid through the regular pay channels or by mail, if requested.
- Failure to Pay Wages Penalties: Employers who fail to pay wages will be required to pay the unpaid wages plus legally-determined interest until the wages are paid.

Severance Agreements

Employers may include non-compete provisions in severance agreements, but they may not be enforceable against at-will employees who were terminated without cause. Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In West Virginia, the state law claims that may be released are those under the West Virginia Human Rights Act (W.V. Code. § 5-11-1 et seq.), West Virginia Pregnant Workers' Fairness Act, West Virginia's equal pay laws, West Virginia's leave laws, and West Virginia's minimum wage and overtime laws. Further, under West Virginia law, employers must provide a seven-day revocation period for employees to rescind their acceptance of a claims release.

West Virginia employers executing severance agreements with employees must provide the phone number for the state bar (1-866-989-8227).

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Withdraw Registration to do Business

Once an organization stops doing business in West Virginia (such as when the organization separates from its last West Virginia employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations and Non-Profit Corporations must file this Application for Withdrawal.
- Limited Liability Companies (LLCs) must file this Certificate of Cancellation.

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that the provisions in severance agreements are enforceable

Action

- Withdraw your registration to do business in West Virginia (if applicable)



Final Paycheck Requirements

Wisconsin state law requires that employees who separate from their employer be paid according to the following schedule:

- Termination Payment: Employees who are terminated must be paid on the next scheduled payday or within 31 days, whichever is earlier. Whenever an employee is discharged due to the employer merging, liquidating, or otherwise disposing of the business, all wages must be paid within 24 hours of separation.
- Resignation Payment: Employees who resign their employment must be paid on the next scheduled payday or within 31 days, whichever is earlier.
- Final Wage Amount: Employees must be paid all earned wages in full.
- Payout of Unused Vacation: All accrued and unused vacation time must be paid upon separation unless the employer states in a policy or contract that this leave is not paid upon separation.
- Final Paycheck Location: Wisconsin law does not specify how final wages must be paid but it is a best practice to provide them through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages will be required to pay the unpaid wages plus attorney's fees and costs if the employee is forced to recover their wages in court.

Action

- Confirm any departing employee is timely paid their final earned wages

Separation Notice

Wisconsin requires all employers that provide a group health insurance plan to notify separated employees of their right to continue coverage under Wisconsin's state-level COBRA law as well as the procedures and timeframes for obtaining continued coverage within 5 days of separation.

Action

- Check that you are providing all required notices upon separation

Wisconsin WARN Act

General Statement

Covered Employers must provide 60 days' notice to Affected Employees before (1) a Business Closing that affects 25+ employees, or (2) a Mass Layoff of (A) the greater of 25 employees or 25% of the Covered Employer's total workforce, or (B) 500 employees.

Definitions

A "Covered Employer" is any organization with 50 or more employees in the state of Wisconsin. Wis. Stat. § 109.07(1)(d)

An "Affected Employee" is any employee who experiences (or may reasonably be expected to experience) an employment loss as a consequence of a Business Closing or Mass Layoff. Wis. Stat. § 109.07(1)(a)

- An "Employment Loss" is (1) a termination of employment (other than a discharge for cause, voluntary departure, or retirement), (2) a temporary layoff for a period exceeding 6 months, or (3) a reduction in work hours by more than 50% during each month of any 6-month period. Wis. Adm. Code DWD 279.01(1)(a)

Action

- Provide WARN notices for mass layoffs



Triggering Events

A "Business Closing" is the permanent or temporary shutdown of a single employment site, or one or more employment sites within a single municipality that causes an Employment Loss for 25+ employees. Wis. Stat. § 109.07(1)(b)

A "Mass Layoff" is a reduction in force at an employment site or within a single municipality that affects (excluding Part-Time Employees) (1) at least 25% of the Covered Employer's workforce or 25 employees (whichever is greater), or (2) at least 500 employees. Wis. Stat. § 109.07(1)(f)

- A "Part-Time Employee" is an employee who (1) has been employed by an employer for fewer than six of the 12 months preceding the date on which a WARN notice is required, or (2) averages fewer than 20 hours of work per week. Wis. Stat. § 109.07(1)(h)

Events that Do Not Trigger WARN

"Sale of Business": A Covered Employer is not required to deliver WARN notices if Wisconsin's Department of Workforce Development determines that the Business Closing or Mass Layoff is the result of the sale of all or part of the Covered Employer's business and the purchaser agrees in writing as part of the purchase agreement, to hire substantially all of the Affected Employees with no more than a 6-month gap in employment. Wis. Stat. § 109.07(6)(a). If this exception does not apply and WARN notices are required, the seller is responsible for providing notices of Business Closings and Mass Layoffs occurring up to the effective date of the sale, and the buyer is responsible for providing notice of events occurring thereafter. Wis. Adm. Code DWD 279.02(2) (a) "Strike or Lockout": Notice is not required for Business Closings or Mass Layoffs that are caused by a strike or lockout not intended to evade WARN requirements. Wis. Stat. § 109.07(1m)(c); Wis. Adm. Code DWD 279.08(1)

"Relocation/Transfer": Notice is not required if the Wisconsin Department of Workforce Development determines that the Business Closing or Mass Layoff is the result of a relocation of all or part of a Covered Employer's business within a Reasonable Commuting Distance, so long as the Covered Employer offers to transfer substantially all of the Affected Employees with no more than a 6-month gap in employment. Wis. Stat. § 109.07(6)(b)

- A "Reasonable Commuting Distance" is presumed to be less than 50 miles, unless an affected employee has already been commuting 50 miles or greater on a voluntary basis prior to the relocation or indicates in writing that they are willing to commute 50 miles or more under a relocation. On a case by case basis, the Department of Workforce Development may determine that a commuting distance of less than 50 miles is not reasonable if industry practice or local conditions so warrant. Wis. Adm. Code DWD 279.08(3)(c)

"Temporary Cessation of Business": Notice is not required if the Wisconsin Department of Workforce Development determines that the Business Closing or Mass Layoff was the result of a temporary cessation in business operations, and the Covered Employer recalls the Affected Employees on or before the 60th day after resuming operations. Wis. Stat. § 109.07(6)(f)

Notice Timing

Notice must be delivered at least 60 days before the Business Closing or Mass Layoff occurs.

Action

- Provide WARN notices for mass layoffs



Because it is not always possible to know 60 days in advance whether Mass Layoffs or Plant Closings will occur, the Act contemplates the following exceptions to the 60-day requirement. If an exception applies, the Covered Employer is not required to deliver notice 60 days in advance and must instead deliver notice "as soon as is practicable."

- **Unforeseeable Business Circumstances:** 60 days' notice is not required if the Wisconsin Department of Workforce Development determines that the Mass Layoff or Business Closing was not reasonably foreseeable at the time Notice would have ordinarily been required. Wis. Stat. § 109.07(6)(d).
- **Mass Layoff Extension:** Where a layoff is initially anticipated to last less than 6 months and is later extended beyond 6 months, notice is required when it becomes evident that the layoff will extend beyond 6 months. Wis. Adm. Code DWD 279.04(3).
- **Faltering Company:** 60 days' notice before a Business Closing or Mass Layoff is not required if the Wisconsin Department of Workforce Development determines that (1) at the time notice would ordinarily be required, the Covered Employer was actively seeking financing or new business that would have enabled the Covered Employer to avoid or postpone the Business Closing or Mass Layoff, and (2) the Covered Employer reasonably and in good faith believed that giving 60 days' notice would have prevented them from obtaining the financing or new business. Wis. Stat. § 109.07(5)(a) To obtain the necessary determination from the Department of Workforce Development, the Covered Employer must submit a written record of its efforts to obtain financing or new business that includes the information listed in Wis. Adm. Code DWD 279.08(8)(b)-(d).
- **Natural Disaster:** 60 days' notice is not required if the Wisconsin Department of Workforce Development determines that the Business Closing or Mass Layoff was necessitated by any form of manmade or natural disaster beyond the employer's control. To qualify for this exception, a Covered Employer must be able to demonstrate that the Business Closing or Mass Layoff is a direct result of the natural disaster. Wis. Stat. § 109.07(6)(e).
- **Conclusion of Seasonal Work:** 60 days' notice is not required if the Wisconsin Department of Workforce Development determines that the Business Closing or Mass Layoff is the result of the completion of a particular project or work of a specific duration, including seasonal work, if the Affected Employees were hired with the understanding that their employment was limited to the duration of the project or undertaking. Wis. Stat. § 109.07(6)(c).

Notice Content

- Covered Employers must provide notices to (1) Affected Employees, (2) any representatives of Affected Employees (e.g., union representatives), (3) the highest official of the municipality within which the Business Closing or Mass Layoff will occur, and (4) the Administrator of the dislocated workers program in the Wisconsin Department of Workforce Development. Wis. Stat. § 109.07; Wis. Adm. Code DWD 279.03.

Notices delivered to Affected Employees must include:

- 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;
- The expected date when the Plant Closing or Mass Layoff will commence and the expected date when the individual employee will be separated;
- An indication whether or not bumping rights exist;

Action

- Provide WARN notices for mass layoffs



- the name and telephone number of a company official to contact for further information; and
- Contact information for the local workforce development board serving the area in which the Business Closing or Mass Layoff will occur and, if available, a list prepared by the board that identifies the resources available in the area that provide career planning, job search, job skills training, and other support services, and the contact information for accessing those resources. Wis. Adm. Code DWD 279.06.
- Notices delivered to representatives of Affected Employees (like union leaders) must include:
- The name and address of the employment site where the plant closing or mass layoff will occur;
- The name and telephone number of a company official to contact for further information;
- 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;
- The expected date of the first separation and the anticipated schedule for making separations; and
- The job titles of positions to be affected and the names of the workers currently holding affected jobs. Wis. Adm. Code DWD 279.06.

Notices delivered to the highest official of the municipality within which the Business Closing or Mass Layoff will occur, and the Administrator of the dislocated workers program in the Wisconsin Department of Workforce Development must include:

- The name and address of the employment site where the plant closing or mass layoff will occur;
- The name and telephone number of a company official to contact for further information;
- 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;
- The expected date of the first separation, and the anticipated schedule for making separations;
- The job titles of positions to be affected, and the number of affected employees in each job classification;
- An indication as to whether or not bumping rights exist; and
- The name of each union representing affected employees, and the name and address of the chief elected officer of each union. Wis. Adm. Code DWD 279.06.

Severance Agreements

- Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Wisconsin, the state law claims that may be released are those under the [Wisconsin Fair Employment Act](#), Wisconsin's leave laws, and Wisconsin's [minimum wage and overtime laws](#).
- It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.
- Employers must also remember to review applicable federal laws. In particular, the NLRB's recent decision and subsequent guidance from its General Counsel restrict the use of non-disparagement and confidentiality provisions in severance agreements.

Action

- Provide WARN notices for mass layoffs



Report Employee Termination

- If you have an employee with [Income Withholding for Support Order](#) (“IWO”), you must report the employee’s termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).
- You can also report an employee’s termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:
 - Employee Name
 - Employee Case Identifier
 - Last Known Home Address
 - New Employer Address (if known)
 - Date of Separation

Action

- Report employee termination

Withdraw Registration to do Business

- Once an organization stops doing business in Wisconsin (such as when the organization separates from its last Wisconsin employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.
- For-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Statement of Withdrawal](#).

Action

- Withdraw your registration to do business in Wisconsin (if applicable)

Final Paycheck Requirements

Alabama does not regulate how and when final paychecks must be paid. However, it is a best practice to ensure that your departing employees are fully paid their earned wages in a timely manner. Many states require for employers to provide final paychecks on the next regularly scheduled payday. Employers who fail to pay wages to their separated employees can face civil penalties at least equal to the unpaid wages and can even be subject to criminal penalties including jail time.

Alabama law doesn't require employers to pay out accrued but unused vacation time upon separation unless the employer has a policy requiring payout.

- Final Paycheck Location: Wyoming law does not specify how final wages must be paid but it is a best practice to provide them through regular pay channels.
- Failure to Pay Wages Penalties: Employers who fail to pay wages are guilty of a misdemeanor and may be required to pay the unpaid wages, 18% interest until the wages are paid, the employee's attorney's fees and costs, and fines of up to \$750 for each offense.

Separation Notice

All employers in Wyoming are required to notify separated employees of the potential availability of unemployment compensation benefits at the time of separation.

Severance Agreements

Employers executing claims releases with their employees must explicitly list the claims the employee is releasing under federal and state law. In Wyoming, the state law claims that may be released are those under the [Wyoming Fair Employment Practices Act](#), Wyoming Civil Rights Act, Wyoming's leave laws, and Wyoming's [minimum wage](#) and overtime requirements.

It's important to make sure any release of claims only waives claims that may have arisen prior to the effective date of the agreement—not those that arise later.

Report Employee Termination

If you have an employee with [Income Withholding for Support Order](#) ("IWO"), you must report the employee's termination as soon as possible to the child support agency, court, or attorney that issued the IWO. You can register for online reporting with the Federal Office of Child Support Enforcement [here](#).

You can also report an employee's termination physically by completing the Notification of Employment Termination or Income Status section of the IWO and fax or mail it to the child support agency that issued it. You should be prepared to supply the following information:

- Employee Name
- Employee Case Identifier
- Last Known Home Address
- New Employer Address (if known)
- Date of Separation

Action

- Confirm any departing employee is timely paid their final earned wages

Action

- Check that you are providing all required notices upon separation

Action

- Check that the provisions in severance agreements are enforceable

Action

- Check that the provisions in severance agreements are enforceable

Withdraw Registration to do Business

Once an organization stops doing business in Wyoming (such as when the organization separates from its last Wyoming employee), it can formally withdraw its registration to do business in the state by submitting the proper form to the Secretary of State. The form an organization needs to submit varies depending on the type of legal entity.

- For-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Non-Profit Corporations must file this [Application for Certificate of Withdrawal](#).
- Limited Liability Companies (LLCs) must file this [Application for Certificate of Withdrawal](#).

Action

- Withdraw your registration to do business in Wyoming (if applicable)

Federal Record-Retention Requirements

Age Discrimination in Employment Act (“ADEA”)

- Under the ADEA, employers must retain all payroll records containing the employee’s name, address, DOB, occupation, pay rate, and weekly compensation for at least three years. The ADEA also requires employers to retain documents related to employee benefit plans and any written seniority or merit system for one year longer than the duration of the plan.
- Personnel records must be maintained for one year after the record is made or personnel action is taken. Personnel records include those used in hiring (applications, resumes, etc.), records regarding employment decisions (promotions, terminations, etc.), and records from employment tests, training, etc.

Americans with Disabilities Act (“ADA”)

- Under the ADA, private employers must retain all employment and personnel records for one year from the date the record was made or personnel action was taken. If the employee is terminated involuntarily, the records must be kept for a year from the date of the termination.
- Educational institutions and state and local governments must retain those records for two years. If the employee is terminated involuntarily, the records must be kept for two years from the date of the termination.
- If a charge of discrimination is filed under Title VII, the ADA, or GINA, or where a civil action has been brought, the employer must retain all records related to the charge or action until its final disposition.

Civil Service Reform Act (“CSRA”)

- Under the CSRA, every employer who is required to file a report under the act is responsible for maintaining records that will provide the information necessary to verify the accuracy and completeness of the report. Records must be kept for five years after the date the report is filed. Any record necessary to verify, explain, or clarify the report must be maintained.
- Employee Polygraph Protection Act (“EPPA”)
- Under the EPPA, under circumstances that permit polygraph tests, employers must retain required records for a minimum of three years from the date of the polygraph examination.
- Employers investigating an economic loss or injury must maintain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular employee and proof of service of that statement to the examinee.
- Employers who manufacture, distribute, or dispense controlled substances must maintain records specifically identifying the loss or injury in question and the nature of the employee’s access to the person or property that is the subject of the investigation.
- Every employer who requests an employee or prospective employee to submit to a polygraph examination pursuant to the ongoing investigation, drug manufacturer, or security services EPPA exemptions must maintain: A copy of the written statement that sets forth the time and place of the examination and the examinee’s right to consult with counsel;
- A copy of the written notice provided by the employer to the examiner identifying the persons to be examined; and
- Copies of all opinions, reports, or other records furnished to the employer by the examiner relating to such examinations.

Action

- Withdraw your registration to do business in Wyoming (if applicable)

Equal Employment Opportunity Commission (“EEOC”)

- The EEOC requires that private employers keep all personnel or employment records for one year after the record was made or the personnel action was taken, whichever is later. If the employee is terminated, the records must be maintained for one year from the date of termination.
- All state and local government employers and public and private educational institutions with 15 or more employees are required to retain personnel and employment records for two years from the later of the creation of the record or the action being taken. If the employee is terminated, the records must be maintained for two years from the date of termination.
- If the employee files a discrimination charge under Title VII, the ADA, or GINA, or if a civil action is brought by the Attorney General or the EEOC, employers must maintain employment and personnel records until the final disposition of the charge or action.

Employee Retirement Income Security Act (“ERISA”)

- Under ERISA, employers sponsoring a retirement plan are required by law to keep books and records available for review by the IRS. Plan sponsors should keep the plan and trust documents, recent amendments, determination and approval letters, related annuity contracts and collective bargaining agreements. Different plans require retention of different records:
 - SEP Plans – Keep Form 5305-SEP or 5305A-SEP as the plan document;
 - SIMPLE IRA plans – Keep Form 5304-SIMPLE or 5305-SIMPLE as the plan document;
 - Profit sharing, 401(k) or defined benefit plans – Keep the plan document, adoption agreement (if there is one) and all plan amendments.
 - Retirement plan records need to be kept until the trust or IRA has paid all benefits and enough time has passed that the plan won’t be audited.

Equal Pay Act (“EPA”)

- The EPA incorporates the FLSA recordkeeping requirements (see the FLSA section below for a list of documents) and imposes a three-year maintenance requirement. Additionally, employers must keep copies of timecards, timesheets, records explaining any wage differences between employees of the opposite sex, and wage rate tables for two years from the date the record was made. Any collective bargaining agreements must be kept for three years.

Fair Labor Standards Act (“FLSA”)

- Under the FLSA, employers must retain all payroll records for at least three years after the last date of entry, supplementary records must be kept for two years after it’s made, age certificates need to be maintained for as long as the employment relationship exists, and training agreements need to be kept for the entirety of the training program.
- For tipped employees, employers must maintain the following records for three years after their creation:
 - each employee whose wage is determined in part by tips;
 - the weekly or monthly amount reported by the employee, to the employer, of tips received;

Action

- Withdraw your registration to do business in Wyoming (if applicable)

- the amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer;
- hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and
- hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.

Family and Medical Leave Act (“FMLA”)

- The [FMLA](#) requires that covered employers maintain the records containing the following information for at least three years:
- Basic payroll and identifying employee data;
- Dates FMLA leave is taken by FMLA-eligible employees (leave must be designated in records as FMLA leave), including the hours of the leave, if FMLA leave is taken in increments of less than one full day;
- Copies of employee notices of leave provided to the employer under the FMLA, if in writing, and copies of all eligibility notices given to employees as required under the FMLA (copies may be maintained in employee personnel files);
- Any documents (including written and electronic records) describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leave;
- Premium payments of employee benefits.; and
- Records of any dispute between the employer and an eligible employee regarding designation of leave as FMLA leave, including any written statement from the employer or employee of the reasons for designation and for the disagreement.
- Any of the records above that are also subject to medical record laws, the [Genetic Information Nondiscrimination Act](#), or the [Americans with Disabilities Act](#) must be maintained in accordance with those laws.

Federal Insurance Contribution Act (“FICA”)

- Employers subject to [FICA](#) are required to keep tax records for four years after the latter of the tax due date or the date tax is paid. The following records need to be maintained:
- The amount of each wage payment made to each employee (review sub-sections i-v for the details to be included in those records);
- The details of each adjustment or settlement of taxes under FICA; and
- All employee payments in the form of tips that were reported to the employer.
- The IRS provides a helpful breakdown of the documents employers must retain.

Federal Unemployment Tax Act (“FUTA”)

- The [FUTA](#) requires employers to retain the following records for four years from the latter of the tax due date or tax payment date:
- The total amount of paid to employees during the calendar year;
- The amount of payment which constitute wages subject to the tax;
- The amount of contributions paid to each State unemployment fund;
- The information required to be shown on the prescribed return and the extent to which the employer is liable for the tax.
- If the total amount paid and the amount subject to the tax are different, the reason for the difference.

If it’s relevant to determine tax liability, the dates on which each employee performed services not in the course of the employer's trade or business, and the amount of cash paid at any time for such services.

Action

- Withdraw your registration to do business in Wyoming (if applicable)

Health Insurance Portability and Accountability Act (“HIPAA”)

- HIPAA requires that Covered Entities and Business Associations maintain medical records for six years after the later of their creation date or the date it was last in effect. There are different types of records required for each type of business, but below is a list of common records covered under HIPAA:
- Notices of privacy practices;
- Authorizations for disclosures of Protected Health Information (“PHI”);
- Risk assessments and risk analyses;
- Disaster recovery and contingency plans;
- Business associate agreements;
- Information security and privacy policies;
- Employee sanction policies;
- Incident and breach notification documentation;
- Complaint and resolution documentation;
- Physical security maintenance records;
- Logs recording access to and updating of PHI;
- IT security system reviews.
- This is not an exhaustive list, nor are all these records always required. Consider consulting an attorney if you are unsure about your HIPAA recordkeeping duties.
- Immigration Reform and Control Act (“IRCA”)
- The IRCA requires to retain an Employment Eligibility Verification Form (I-9) for three years after the date the employee began working or one year after the date employment was terminated, whichever is longer.
- Labor Management Reporting and Disclosure Act (“LMRDA”)
- Under the LMRDA, every employer who is required to file a report under the act is responsible for maintaining records that will provide the information necessary to verify the accuracy and completeness of the report. Records must be kept for five years after the date the report is filed. Any record necessary to verify, explain, or clarify the report must be maintained.

Occupational Safety and Health Act (“OSHA”)

- OSHA requires employers with more than 10 employees to retain records of serious work-related injuries and illnesses for at least five years. For employees who work in areas that can expose them to toxic substances, employers generally need to retain exposure records for 30 years.

Sarbanes-Oxley Act (“SOX”)

- Publicly-traded companies subject to the SOX Act must retain financial data and other records related to an audit or review for seven years after the auditor concludes their review. Employers who are found to intentionally destroy or alter relevant documents are subject to liability up to \$1M and 20 years’ imprisonment.

Title VII of the Civil Rights Act

Under Title VII, private employers must retain all employment and personnel records for one year from the date the record was made or personnel action was taken. If the employee is terminated involuntarily, the records must be kept for a year from the date of the termination.

Educational institutions and state and local governments must retain those records for two years. If the employee is terminated involuntarily, the records must be kept for two years from the date of the termination.

Action

- Withdraw your registration to do business in Wyoming (if applicable)

Notice Under Continuing Omnibus Budget Reconciliation Act (“COBRA”)

The U.S. Department of Labor (DOL) requires employers that provide a group health insurance plan and have 20 or more employees to offer continuation of medical coverage to separated employees who have lost coverage as a result of certain qualifying events. Employers may use a third-party plan administrator or may administer the plan themselves. If the employer uses a third party, they must notify the plan administrator within 30 days of any employee who experiences a qualifying event.

Plan administrators must provide an Election Notice to each qualified beneficiary who loses coverage due to a qualifying event. The notice must be provided within 14 days of the time the plan administrator learns of the qualifying event. The notice must include:

- The name of the plan and the name, address, and telephone number of the plan’s COBRA administrator;
- Identification of the qualifying event;
- Identification of the qualified beneficiaries (by name or by status);
- An explanation of the qualified beneficiaries’ right to elect continuation coverage;
- The date coverage will terminate (or has terminated) if continuation coverage is not elected;

How to elect continuation coverage;

- What will happen if continuation coverage isn’t elected or is waived;
- What continuation coverage is available, for how long, and (if it is for less than 36 months), how it can be extended for disability or second qualifying events;

How continuation coverage might terminate early;

- Premium payment requirements, including due dates and grace periods;
 - A statement of the importance of keeping the plan administrator informed of the addresses of qualified beneficiaries; and
 - The name of each union representing affected employees, and the name and address of the chief elected officer of each union.
- NOTE: states also have their own mini-WARN acts that employers should take into consideration during layoffs and shutdowns.

Waiver of Age Discrimination Claims

- The Older Workers Benefits Protection Act (“[OWBPA](#)”) protects older workers from age discrimination in severance agreement negotiations by setting requirements for waivers of age discrimination claims. When presenting waivers of age discrimination claims to employees who are 40 years or older, the waiver must:

Action

- Withdraw your registration to do business in Wyoming (if applicable)

- Be in a written document that is clearly understandable, and not misleading to the employee;
 - Specifically note that ADEA claims or rights are being waived;
 - Advise the employee to consult with an attorney before accepting the agreement;
 - Not require the employee to waive future claims arising under the ADEA;
 - Provide the employee with consideration in addition to what they are already otherwise entitled;
 - Contain age and job title information about the people in any class, unit, or group of individuals covered by any employment termination program offered by the company (only required if there is a group layoff);
 - See [29 C.F.R. 1625.22\(f\)](#) for a details and examples.
 - Give the employee at least 21 days to consider the offer; and
 - If you are terminating the employee as part of a group layoff, you must give the employee 45 days to consider the offer.
-
- Provide the employee with seven days to revoke their acceptance.
-
- Courts will not enforce waivers of age discrimination claims that don't comply with the OWBPA requirements.

Limitations on Non-Disparagement and Confidentiality Provisions

- National Labor Relations Board
- On February 21, 2023, the national Labor Relations Board (“NLRB”) ruled in [McLaren Macomb](#) that overly-broad confidentiality and non-disparagement provisions in severance agreements constitute an unlawful requirement that employees waive their rights under Section 7 of the National Labor Relations Act (“NLRA”). Section 7 provides the rights to discuss the terms and conditions of employment with co-workers, file unfair labor practice charges, assist other employees in filing charges, and assist the NLRB with investigations. The rights also extend to an employee’s ability to communicate with third parties about working conditions.

According to the NLRB’s decision and subsequent [guidance from the Board’s General Counsel](#):

- Confidentiality provisions in severance agreements that prohibit employees from disclosing the terms of the severance agreement (including the amount) violate the employees’ NLRA rights;
 - Non-disparagement provisions in a severance agreement that prohibit criticism of the employer are unlawful;
 - Even proffering an unlawful agreement to an employee is against the law (even if the employee never signs it or the employer never seeks to enforce it);
 - The prohibition of overly-broad provisions in severance agreements applies retroactively; and
 - The ruling applies to all private employers;
-
- This ruling does not apply to supervisor employees because they don’t have rights under Section 7 of the NLRA.
 - According to the GC, a lawful confidentiality provision would likely need to be limited to protecting trade secrets or other proprietary information, and a lawful non-disparagement provision would likely need to be limited to one prohibiting defamation (maliciously untrue statements about the employer).

Action

- Withdraw your registration to do business in Wyoming (if applicable)

Speak Out Act

- The [Speak Out Act](#) renders pre-dispute non-disclosure or non-disparagement agreements that prohibit an employee from disclosing facts about a sexual harassment or sexual assault dispute unenforceable. The law's prohibition reads:
- "With respect to a sexual assault dispute or sexual harassment dispute, no nondisclosure clause or non-disparagement clause agreed to before the dispute arises shall be judicially enforceable in instances in which conduct is alleged to have violated Federal, Tribal, or State law."
- Employers should review any non-disclosure or non-disparagement provisions to ensure they don't prohibit employees from discussing sexual harassment or sexual assault disputes.

Action

- Withdraw your registration to do business in Wyoming (if applicable)