



COMPLIANCE @ WORK

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The Worker Adjustment and Retraining Notification Act (WARN) as applied by the Congressional Accountability Act

Section 205 of the [Congressional Accountability Act \(CAA\)](#) extends certain rights and protections of the [Worker Adjustment and Retraining Notification Act \(WARN\)](#) to covered employees. Specifically, Section 205 provides that no employing office can be closed or a mass layoff ordered until after affected employees or their exclusive representative or bargaining agent have received written notice 60 days in advance. This allows workers and their families some transition time to adjust to the possible loss of employment, to seek and obtain alternative jobs, and, if necessary, to enter skill training or retraining to enable the workers to successfully compete in the job market.

Who Must Give Notice?

- An employing office that is anticipating an office closing or mass layoff and employs either:
 - 100 or more employees, not including part-time employees; or
 - 100 or more employees, including part-time employees, who collectively work at least 4,000 hours per week without counting overtime
- An employing office that has previously announced and carried out a “short-term layoff” to last less than 6 months, and later chooses to extend the layoff for longer than 6 months because of unforeseen circumstances
- An employing office that is privatizing or selling some or all of its operations, and plans to undergo an office closing or mass layoff as part of that transaction



Notice Requirements

Notice must be in writing and include:

- (1) The name and address of the employment site where the office closing or mass layoff will occur, and necessary contact information;
- (2) A statement as to whether the planned action is expected to be permanent or temporary; and whether the entire office is to be closed;
- (3) The expected date of the first termination and the anticipated schedule for all planned terminations;
- (4) The job titles of positions to be affected and the names of the workers currently holding affected jobs; and
- (5) An indication of whether or not the right to displace another employee exists.

Any reasonable method of delivery to the parties is acceptable. Notice must be delivered to the collective bargaining representative of all affected employees or the affected employees themselves, including part-time employees. Notice must be delivered at least 60 calendar days before any planned office closing or mass layoff.

When Must Employers Give Notice?

With few exceptions, an employer is required to give notice when there is either an office closing or a mass layoff.

Office Closing

A permanent or temporary shutdown of an employment site (or one or more facilities or operating units within an employment site) if the shutdown results in an employment loss for 50 or more employees within any 30-day period. An employment loss means one of the following:

- (1) an employment termination (other than for cause, voluntary departure, or retirement);
- (2) a layoff exceeding 6 months; or
- (3) a reduction in an individual employee's work hours of more than 50 percent during each month of any 6 month period.

Even if employment losses of two or more groups of workers during any 30- day period are below the thresholds to trigger notice requirements, notice may still be required if the employment losses during any 90-day period, added together, reach the threshold.

An office closing differs from a mass layoff in that an office closing involves employment loss through the shutdown of either an entire site or distinct units within a site, and a mass layoff involves employment loss without such a shutdown.

Remedies

An employing office that violates Section 205 by ordering an office closing or mass layoff without the appropriate notice is liable to each aggrieved employee for an amount that can include back pay and benefits for the period of the violation, up to 60 days.

Mass Layoff

A reduction in an employing office's workforce which:

- (1) is not the result of an "office closing"; and
- (2) results in an employment loss at a "single site of employment" during any 30-day period for
 - At least 33 percent of active employees, not including part-time employees and
 - At least 50 employees, not including part-time employees.

For example, when the House of Representatives privatized its mail services, only three of 113 employees affected remained employed with the House.¹

Where the layoff affects 500 or more employees (excluding part-time employees), the 33 percent requirement does not apply.

Where to Get Help

Whether managers in an employing office wondering what their responsibilities are under the CAA and employees wondering what protections they have are encouraged to contact the Office of Compliance to gain additional information about the impact of WARN in the Congressional workplace.

For more information on the Office of Compliance or the Congressional Accountability Act please call us at (202) 724-9250 or visit www.compliance.gov. All inquiries are strictly confidential.

¹*Schmelzer v. Office of the Chief Administrative Officer*, Nos. 96-HS-14 (WN), 96-HS-04 (WN), 96-HS-05 (WN), 96-HS-06 (WN), 96-HS-09 (WN), 96-HS-16 (WN), 96-HS-18 (WN), 96-HS-20 (WN), 96-HS-26 (WN) (Consolidated), 1997 WL 34678672 (OOC Board July 29, 1997).