

# WARN

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) ACT

## ***WORKER'S***

*Guide to  
Advance Notice  
of Closings and Layoffs*

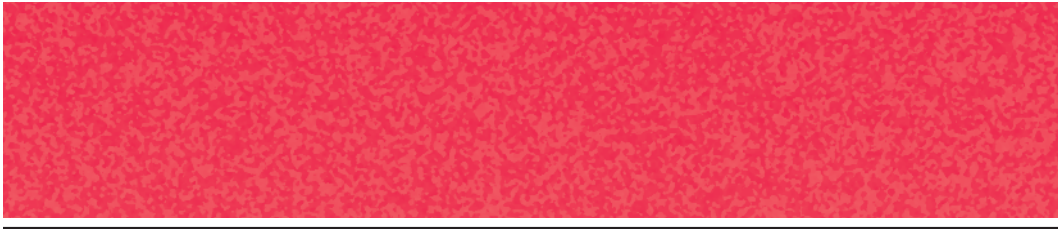
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This guide is intended to present a brief overview describing the principal provisions of the Worker Adjustment and Retraining Notification (WARN) Act, Public Law 100-379 (29 U.S.C. § 2101 *et seq.*). In addition, it provides answers to frequently asked questions (FAQs) about employer requirements and employee rights under WARN, Web site links to the U.S. Department of Labor's Employment and Training Administration (ETA) Dislocated Worker Web Site, the Department's Employment Laws Assistance for Workers and Small Businesses, and the Employee Retirement Income Security Act relative to termination benefits. The guide also includes contact information to find your State Rapid Response Dislocated Worker Unit and a National Toll-Free Help Line to assist individuals in locating the nearest One-Stop Career Center.

This guide is not an official statement of interpretation of WARN or of the Regulations adopted by ETA. The regulations appear at 20 CFR Part 639.

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THE WORKER ADJUSTMENT  
AND RETRAINING  
NOTIFICATION (WARN) ACT

*Worker's Guide to Advance Notice  
of Closings and Layoffs*

# TABLE OF CONTENTS

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<b>INTRODUCTION</b> .....	1
<b>THE WARN ACT</b>	
Your Rights under WARN .....	2
Employees Protected by WARN .....	2
Employees Not Protected by WARN .....	3
Transfers .....	4
Receipt of Notice of a Layoff or Plant Closing .....	4
What the Notice Must Contain .....	4
Extension of Notice .....	5
Notice That Does Not Satisfy WARN Requirements .....	6
Other Organizations That Receive Notice .....	6
Sale of a Business .....	6
Exceptions to WARN Notice Requirement .....	7
Help Is Available If You Feel Your Rights Have Been Violated .....	8
WARN Enforcement .....	8
To Obtain a Copy of the WARN Act and Regulations .....	9
<b>FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT WARN</b>	
Other Laws and Contracts .....	10
Clarification of Who Is Required to Receive Notice .....	10
Payment Instead of Notice .....	13
Entitlement to Vacation Pay .....	14
Bumping Rights .....	14
Transfers .....	16
Sale of Business .....	16
Bankruptcy .....	17
Postponement of Layoff .....	18
Waiving the Right to Notice .....	18
Penalties for Failure to Give Notice .....	19
<b>GLOSSARY OF WARN TERMS</b> .....	20-23
<b>DIRECTORY OF INFORMATION AND CONTACTS</b> .....	24

## INTRODUCTION

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In our dynamic economy, many companies are streamlining their operations to maintain a competitive position in the marketplace. Although such actions can help a company become more efficient, this may result in the elimination of existing jobs and facilities. The ability of workers to readjust and find new employment after they have lost their jobs is a major concern of the U.S. Department of Labor.

The Department is focusing its efforts to help workers find new jobs or access training opportunities to prepare for new jobs. Information about the nearest location for such assistance can be obtained by calling the National Toll-Free Help Line at 1-877-US-2JOBS (TTY: 1-877-889-5627). These services are available to all workers whether or not they have received a WARN notice.

For many workers who have been dislocated due to a layoff or plant closure, early intervention can play an important role in their successful reemployment and can help workers and communities adjust to the effects of layoffs and plant closings. In August 1988, Congress passed the WARN Act to provide workers with sufficient time to seek other employment or retraining opportunities before losing their jobs. This law became effective on February 4, 1989.

*This guide is a general overview of the law and does not replace the advice of an attorney.*

# THE WARN ACT

## YOUR RIGHTS UNDER WARN

You must receive a written notice 60 days before the date of a mass layoff or plant closing if you meet the conditions discussed in this brochure. If your employer does not give you the required notice, you may be able to seek damages for back pay and benefits for up to 60 days, depending on how many days' notice you actually received.

Please refer to the following information to help you understand when WARN applies to the circumstances of your job loss.

## EMPLOYEES PROTECTED BY WARN

You are protected by WARN if your company fits the following profile:

- It is a business with 100 or more full-time workers (not counting workers who have less than 6 months on the job and workers who work less than 20 hours per week), or employs 100 or more workers who work at least a combined 4,000 hours a week, and is a private for-profit business, private non-profit organization, or quasi-public entity separately organized from the regular government.

Workers protected by WARN may be hourly or salaried workers, including managerial and supervisory employees.

You may be protected by WARN if your job loss occurs as part of:

- A **plant closing** (see glossary)—where your employer shuts down a **facility** or **operating unit** (see glossary) within a **single site of employment** (see glossary and FAQs) and lays off at least 50 full-time workers;
- A **mass layoff** (see glossary)—where your employer lays off either between 50 and 499 full-time workers at a single site of employment and that number is 33% of the number of full-time workers at the single site of employment; or
- A situation where your **employer** (see glossary) lays off 500 or more full-time workers at a single site of employment.

## THE WARN ACT (continued)

Some employment actions are covered by WARN. You are entitled to WARN notice if the above conditions apply to your situation and you:

- Are terminated from your employment, but not if you voluntarily quit, retire, or are discharged for cause;
- Are laid off for more than 6 months; or
- Have your regular hours of work reduced by more than half during each month of a 6-month period.

### **EMPLOYEES NOT PROTECTED BY WARN**

You are not protected by the WARN Act if you are considered any of the following:

- Strikers, or workers who have been locked out in a labor dispute;
- Workers working on temporary projects or facilities of the business who clearly understand the temporary nature of the work when hired;
- Business partners, consultants, or contract employees assigned to the business but who have a separate employment relationship with another employer and are paid by that other employer, or who are self-employed; and
- Regular federal, state, or local government employees.

## THE WARN ACT (continued)

### TRANSFERS

Notice is not required in certain cases involving transfers because the transfer is not considered an **employment loss** (see glossary). If your employer offers you a transfer to a job within a reasonable commuting distance, you are not considered to have suffered an employment loss, whether or not you take the job. If your employer offers you a job outside a reasonable commuting distance (see FAQs), you must accept the job within 30 days, or you are considered to have suffered an employment loss.

There are two other conditions to this transfer rule. One is that the offer of a transfer must be the result of a consolidation or transfer of your employer's business. The other is that the offer must be made before the plant closing or mass layoff occurs. An offer of reassignment to a different site of employment would not be deemed to be a "transfer" if the new job constitutes a **constructive discharge** (see glossary).

### RECEIPT OF NOTICE OF A LAYOFF OR PLANT CLOSING

With some exceptions described later, you must receive a written notice 60 calendar days before the layoff or plant closing. You are entitled to receive this notice even if you are a **part-time worker** (see glossary and FAQs) or you work at another site and will lose your job due to this layoff or plant closing.

### WHAT THE NOTICE MUST CONTAIN

The notice you receive from your employer must include the following information:

- An explanation of whether the layoff or closing is permanent or temporary of 6 months or less;
- The date of layoff or closing and the date of your separation (Your employer has some leeway in predicting the dates on which workers will be separated. Your employer may give you notice that you will be separated within a two-week, or 14-day, period after a certain date. If your employer chooses to use a 14-day period, he/she must give you notice 60 days before the first day of the 14-day period.);



## THE WARN ACT (continued)

- An explanation of **bumping rights** (see glossary and FAQs), if they exist; and
- Name and contact information for a person in the company who can provide additional information.

There are two situations in which you may not receive an individual 60-day written notice from your employer even though WARN applies. The first situation is when a union represents you. In that case, your employer must give 60 days' written notice to the union. It is your union's decision how and when to give you notice.

The second situation is when there is a complex system of bumping rights. This situation will not arise often since most complex seniority systems are created under collective bargaining agreements and the union is the party required to be notified. If there is a complex seniority/bumping system and no union is involved, your employer must make a good faith effort to determine who will actually lose their job as the result of the seniority system. However, your employer is not required to predict exactly who will lose a job as a result of a complex bumping system. If your employer cannot exactly predict who will lose their job as a result of a complex bumping system, your employer must give notice to the person whose job is being eliminated even though that person may later bump another worker.

### EXTENSION OF NOTICE

Your employer can extend the notice when the date or schedule of dates of a planned plant closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice if:

- The mass layoff or plant closing is postponed for less than 60 days, in which case additional notice should be given as soon as possible and should include reference to the earlier notice, the new action date, and the reason for the postponement. The notice does not need to be formal but should be given in a manner that will provide the information to you; or

## THE WARN ACT (continued)

- The postponement is for 60 days or more, in which case you must receive a new WARN notice. Routine periodic notice, given whether or not a plant closing or mass layoff is impending, and with the intent to evade specific notice as required by WARN, is not acceptable.

### NOTICE THAT DOES NOT SATISFY WARN REQUIREMENTS

A verbal announcement at an all-employees' meeting or smaller employees/supervisor staff meeting does not meet the WARN Act requirements. In addition, preprinted notices regularly included in each employee's paycheck or pay envelope or press releases to the media do not meet the requirements.

### OTHER ORGANIZATIONS THAT RECEIVE NOTICE

Your employer is required to provide notice not only to the employee or the union but also to the local government's chief elected official where the employment site is located and to the ***State Rapid Response Dislocated Worker Unit*** (see glossary) so that planning can begin for early intervention services prior to your layoff to help you become reemployed as quickly as possible.

### SALE OF A BUSINESS

WARN applies when all or part of a business is sold. If a covered plant closing or mass layoff occurs, which employer—the seller or buyer—is responsible for giving notice depends on when the event occurs. The seller must give you notice for a covered plant closing or mass layoff that occurs before the sale becomes effective. The buyer must give you notice for a covered plant closing or mass layoff that occurs after the sale becomes effective.

## THE WARN ACT (continued)

Employees of the seller automatically become employees of the buyer for purposes of WARN. That means that even though there is a technical termination of your employment when you stop working for the seller and start working for the buyer, the technical termination does not trigger WARN. See the FAQ section for additional information on sale of a business and bankruptcy issues.

### EXCEPTIONS TO WARN NOTICE REQUIREMENT

There are three exceptions to the full 60-day notice requirement. However, in all cases, notice must be provided as soon as it is practicable. When notice is given in less than the 60-day timeframe, the employer must include a statement of the reason for providing less than 60 days' notice in addition to fulfilling the other information notice requirements. The exceptions to providing the full 60-day notice are as follows:

- A **"faltering company"** is not required to give notice of a layoff or plant closing when, before the plant closing, it is actively seeking capital or business, which if obtained would avoid or postpone the layoff or closure, and if it reasonably believes that advance notice would hurt its ability to find the capital or business it needs to continue operating;
- A business is not required to give a full 60-day's notice if it **could not reasonably foresee business circumstances** that led to a layoff or closing at the time that the 60-day notice would have been required, (e.g., a business circumstance that is caused by some sudden, dramatic, and unexpected action or conditions outside the employer's control like the unexpected cancellation of a major order); or
- A business is not required to give notice if a layoff or plant closing is the direct result of a **natural disaster** (i.e., hurricane, flood, earthquake, tornado, storm, drought, or similar effect of nature).

## THE WARN ACT (continued)

### HELP IS AVAILABLE IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED

If you think that you may have a claim under WARN, you should consult an attorney. Generally, where workers are successful in their suits, the employer pays legal fees incurred. However, if your suit is unsuccessful, you may be liable for legal expenses. Under some circumstances, you may qualify for legal services assistance based upon your income. Further information about accessing such legal services can be found through your local Bar Association.

If you are a union member, speak to your local representative or the union's legal department for specific information about possible legal claims.

Although the U.S. Department of Labor and your state have no enforcement role in seeking damages for workers who did not receive adequate notice or received no notice at all, they can assist you in finding a new job or learning about training opportunities that are available to you whether or not you have received a WARN notice. You may also call the National Toll-Free Help Line (1-877-US-2JOBS or TTY: 1-877-889-5627) or link to [www.servicelocator.org](http://www.servicelocator.org) to find out the most convenient local One-Stop Career Center location. Please refer to the directory at the end of this guide to find out how to contact your state.

### WARN ENFORCEMENT

WARN is enforced through the U.S. District Courts. Workers, their representatives, and units of local government may bring individual or class action suits against employers who they believe to be in violation of the Act. The U.S. Department of Labor has no authority or legal standing in any enforcement action and cannot provide specific binding or authoritative advice or guidance with respect to individual situations. The Department does, however, provide assistance in understanding the law and regulations to individuals, firms, and communities.

## TO OBTAIN A COPY OF THE WARN ACT AND REGULATIONS

Specific requirements of WARN may be found in the Act itself, Public Law 100-379 (29 U.S.C. § 2101, et seq.). The U.S. Department of Labor published final regulations on April 20, 1989, in Volume 54 of the Federal Register at pages 16042 to 16070 (54 FR 16042). The regulations appear at 20 CFR Part 639. The text of this brochure can be seen at the following Web site:

***[www.doleta.gov/programs/factsht/warn.asp](http://www.doleta.gov/programs/factsht/warn.asp)***

For more detailed information on WARN, please visit the U.S. Department of Labor's Employment Laws Assistance for Workers and Small Businesses (elaws) Web site at ***[www.dol.gov/elaws/](http://www.dol.gov/elaws/)***. This site is currently under development and is expected to be available in 2003.

General questions about the WARN law and regulations may be addressed to:



### **U.S. DEPARTMENT OF LABOR**

Employment and Training Administration  
Division of Adults and Dislocated Workers  
Room C5325  
200 Constitution Avenue, N.W.  
Washington, DC 20210  
(202) 693-3580

For information regarding how to contact your State Rapid Response Dislocated Worker Unit, call the National Toll-Free Help Line:

**1 -877-US-2JOBS**

or visit ***[www.doleta.gov/layoff](http://www.doleta.gov/layoff)***  
and go to the Employers page.

## FREQUENTLY ASKED QUESTIONS (FAQs) ABOUT WARN

Here are some frequently asked questions to assist you in determining whether or not your employer has given the proper written notice of a layoff or plant closing and in understanding your rights under the WARN Act.

### **OTHER LAWS AND CONTRACTS**

#### **Does WARN replace other notice laws or contracts?**

The provisions of WARN do not supersede any laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If another law or agreement provides for a longer notice period, WARN notice runs at the same time as that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN but may not reduce WARN rights. For example, if the collective bargaining agreement provides for an employer to issue written notice to the union 75 days in advance of anticipated layoffs, the provision will satisfy the WARN requirement for 60-day advance notice. On the other hand, if a collective bargaining agreement provides a 45-day notice period, the WARN requirement for 60 days notice supersedes that provision.

### **CLARIFICATION OF WHO IS REQUIRED TO RECEIVE NOTICE**

#### **Where is the "single site" of my office if I travel widely within a large geographic area—for example, if I am a salesperson?**

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 work sites (including railroad workers, bus drivers, and salespersons), the single site of employment for WARN purposes is one of the following:

- The location to which workers are assigned as their home base;
- The location from which workers are assigned duties; or
- The location to which they report.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### **How do I determine whether I am considered a full- or part-time worker for the purposes of receiving a WARN notice?**

If you work a regular schedule of 20 hours or more each week and have worked for your employer for more than 6 of the last 12 months, you are a full-time worker. If you work a varying schedule, the examples below may help you understand the calculations needed to determine if you should receive a WARN notice.

If you have a varying work schedule, you determine whether you work an average of fewer than 20 hours by looking at:

- The period since you became employed, if your total period of employment is less than 90 days; or
- The most recent 90 days.

Overtime is not included in this determination.

WEEK NUMBER	EXAMPLE 1 HOURS WORKED	EXAMPLE 2 HOURS WORKED
1	15	24
2	20	25
3	11	17
4	10	20
5	20	15
6	20	19
7	22	24
8	16	18
9	15	17
10	12	15
11	24	26
12	18	23
13	20	22
90 Days Worked	223 Hours	265 Hours

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

The calculation to determine whether you may be eligible for WARN notice is:

TOTAL HOURS WORKED / 13 WEEKS  
= AVERAGE HOURS WORKED PER WEEK

**Example 1**

223 TOTAL HOURS WORKED / 13 WEEKS  
= 17.2 HOURS AVERAGE HOURS WORKED PER WEEK

**Example 2**

265 TOTAL HOURS WORKED / 13 WEEKS  
= 20.4 HOURS AVERAGE HOURS WORKED PER WEEK

The worker in Example 1 is a part-time worker because the average hours worked per week was less than 20 hours.

The worker in Example 2 is a full-time worker because the average hours worked per week was over 20 hours.

If a plant closing or mass layoff occurs, part-time workers are also entitled to receive a WARN notice.

**If I was on leave—workers' compensation, medical, maternity, or other leave—when notice was given to other workers, should I have received a notice as well?**

Yes. Workers on leave who reasonably expect that they will continue employment with their employer are due notice despite being on leave at the time notice was provided to other workers.



## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### PAYMENT INSTEAD OF NOTICE

#### **What if my employer pays me for the 60 days instead of sending me a WARN notice?**

WARN requires 60 calendar days' written notice. The law makes no provision for any alternative such as pay in place of a notice. While an employer who pays workers for 60 calendar days instead of giving them proper notice is in violation of WARN, the provision of pay and benefits in place of a notice is a possible option. Because WARN provides for back pay and benefits for the period of the violation for up to 60 days, generally this approach by an employer—pay in place of notice—means that the employer has already met the penalty specified in the Act. This approach may make it difficult for workers to receive Rapid Response assistance that is usually carried out at the work site. Workers who are given pay in lieu of notice and who need assistance should get in touch with their One-Stop Career Center. Call the National Toll-Free Help Line at 1-877-US-2JOBS or go to [www.servicelocator.org](http://www.servicelocator.org) to find the Center nearest you.

#### **What if while I am receiving 60 days' pay, instead of a WARN notice, I get a new job? Is my employer required to continue paying me until the end of the 60-day period?**

Your former employer can consider the acceptance of a new job as a voluntary termination from your old job. Since you now have a new job, your former employer may end the payments you were receiving instead of a notice—just as the remaining days of your 60-day WARN notice would no longer be in effect if you found new employment before the date of your layoff.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### **Can my employer provide a severance package instead of notice?**

There are certain circumstances under which WARN allows "voluntary and unconditional" payments that are not required by a legal obligation or bargaining agreement to be offset against an employer's back pay obligation. However, payments that are required by a contract, such as an employer's personnel policies (or much less likely, state law), would not offset WARN damages and, thus, would not serve to reduce the employer's liability.

## **ENTITLEMENT TO VACATION PAY**

### **Can my employer decide not to give me my paid vacation in a layoff or closing situation?**

Vacation pay may be considered wages or a fringe benefit in some situations. If you have "earned" the vacation pay, that is, if you have a legal right to it by contract or otherwise, then your employer must pay it as a part of WARN damages. These obligations are generally governed by contract and sometimes by the Employee Retirement and Income Security Act. Call 1-800-998-7542 or visit [www.dol.gov/ebsa](http://www.dol.gov/ebsa) for more information.

## **BUMPING RIGHTS**

### **What obligations does my employer have to give notice when there is an established bumping rights system?**

When there is no union contract but your employer has an established system of bumping rights, your employer must attempt to identify the individuals who will ultimately lose their jobs as a result of the bumping system and provide the WARN notice to them. If your employer cannot reasonably identify those workers, it must give notice to the incumbent workers in the jobs being eliminated.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### **Will my employer give notice to everyone even when all affected workers cannot be identified?**

If, at the time notice is required, it is not possible for your employer to identify who may reasonably be expected to be laid off, then your employer must give notice to those workers whose jobs will be eliminated as a result of the plant closing or mass layoff. Your employer may choose to give broader notice to workers likely to be affected by the seniority system, but it is not appropriate for an employer to provide a blanket notice to all of its employees.

### **In the case of a union contract, if the employer meets the requirements of the regulations and provides notification to the union representative as to the job classifications and the names of employees who are in those job classifications, is that notice sufficient to cover whatever bumping takes place later? Or does the employer have to provide notice about specific individuals who are to be bumped eventually?**

It is not necessary for the employer to identify those who could be bumped when providing a WARN notice to a union representative. The employer is only required to address bumping rights in notices to employees who are not represented by a union. This notice requires an indication of whether bumping rights exist but not an indication of the specific individuals who may be subject to bumping rights in the future. As previously mentioned, when an employer gives individual notice, that employer is required to make a good faith effort to identify and provide notice to those workers who will actually lose their jobs as the result of the seniority system.

### **Does my employer have to tell employees the system it has used to determine who receives layoff notices? Does job tenure or seniority make a difference?**

No. Unless there is an established system for reducing the workforce either in a company policy or as part of a collective bargaining agreement, the employer may select employees to be terminated according to its business needs.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### TRANSFERS

**If my employer offers to transfer me to another location, how do I know if the transfer is within a reasonable commuting distance? Is it based on time, mileage, local custom, or some combination?**

The meaning of the term "reasonable commuting distance" will vary with local and industry conditions. Determining what is a "reasonable commuting distance" involves consideration of the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time. The starting point for determining whether a commuting distance is reasonable is your home, not where you work.

### SALE OF BUSINESS

**If I am terminated without notice at the instant the sale of the business becomes effective, which party is liable—the seller who employed me or the new buyer of the business?**

The seller. In the case of the sale of part or all of a business, the seller is responsible for providing notice of any plant closing or mass layoff that takes place up to and including the effective date (time) of the sale. The buyer is responsible for providing notice of any plant closing or mass layoff that takes place after the sale is complete. Employees of the seller automatically become employees of the buyer for purposes of the WARN notice requirement.

**If I am offered a job with the buyer of the business and I refuse it, is this considered a voluntary departure?**

The refusal of the offer is considered a voluntary departure unless the job offered represents a "constructive discharge," which includes situations where very significant changes are made in employee's wage, benefits, working conditions, or job description.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### **If the buyer of the business continues to employ me but decreases my wages and benefits, has the buyer "constructively discharged" me?**

If a drastic change in wages or working conditions causes a person to believe that he or she was being fired or would be unable to continue working for the buyer, this may constitute a **constructive discharge** (see glossary). This determination is often a matter of your state's laws and can be a strict one. Contact your State Rapid Response Dislocated Worker Unit for specific information or referral to a knowledgeable staff member in the appropriate state agency. See the Directory of Information and Contacts at the end of this brochure for additional sources of information and assistance.

## **BANKRUPTCY**

### **Is my employer required to give notice if it declares bankruptcy?**

WARN remains applicable to an employer that declares bankruptcy in some circumstances. If your employer declares bankruptcy and then orders a plant closing or mass layoff, it may still be liable under WARN. There are two situations under which WARN still applies though your employer declares bankruptcy. The first situation occurs when your employer knows about the closing or mass layoff before filing for bankruptcy and should have given you notice but seeks to use bankruptcy to avoid giving notice. The second situation occurs when your employer continues to run the business in bankruptcy, usually as a "debtor in possession." WARN generally does not apply where a bankruptcy trustee is simply liquidating a business.

The exceptions to the notice requirement, a faltering company and unforeseeable business circumstances, often come up in bankruptcy cases. The bankruptcy proceeding does change the court in which the WARN claim must be filed from the U.S. District Court to the Bankruptcy Court. The bankruptcy filing may affect how soon any damages are actually paid to an affected employee.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### POSTPONEMENT OF LAYOFF

**If my employer gave me a WARN notice and then postponed the layoff because an order was received for more work, does my employer have to give me a new 60-day notice?**

Additional notice is required when the date of a planned plant closing or mass layoff is extended beyond the date or end of a 14-day period announced in the original notice. If the postponement is for less than 60 days, the additional notice should be given as soon as possible and should include a reference to the earlier notice, the new date, and the reason for postponement. Your employer must provide a new WARN notice if the postponement is for 60 days or more.

### WAIVING THE RIGHT TO WARN NOTICE

**Can I waive my right to notice under WARN?**

You cannot be required by your employer to waive your right to advance notice under WARN. However, when an employer closes a facility or has a layoff, the employer may ask its employees to sign a document waiving their right to make claims against the employer. (Waiving the right to make claims against the employer means the employee agrees not to sue the employer for additional financial compensation or any other benefit because of the employee's job loss, or, in some cases, from anything else that may have occurred during the worker's employment.) This request for your signature may involve offering some additional severance pay or extended health benefits. If you received something of value (such as additional pay or benefits) for signing the waiver and you signed the waiver voluntarily and knowingly, you may have waived any claims you have under WARN or other employment-related laws.

## FREQUENTLY ASKED QUESTIONS ABOUT WARN (continued)

### **PENALTIES FOR FAILURE TO GIVE NOTICE**

#### **Are there penalties to the employer for violating the WARN advance notice requirement?**

Yes. An employer who violates the WARN Act notice requirement is liable to each affected employee for an amount equal to back pay and benefits for the period of violation up to 60 days. An employer who fails to provide notice as required to a unit of local government is subject to a civil penalty not to exceed \$500 for each day of violation. The penalty may be avoided if the employer satisfies the liability to each affected employee within three weeks after the closing. In any suit, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. These are the only remedies that WARN provides.

## GLOSSARY OF WARN TERMS

### **Bumping Rights:**

Bumping rights provide for an employee to displace another employee due to a layoff or other employment action as defined in a collective bargaining agreement, employer policy, or other binding agreement. These rights are often created through a seniority system.

### **Constructive Discharge:**

In general, a constructive discharge is when a worker's resignation or retirement may be found to be involuntary because the employer has created a hostile or intolerable work environment or has applied other forms of pressure or coercion that forced the employee to quit or resign.

### **Employer:**

The employer is any business enterprise that employs 100 or more full-time workers or 100 or more full- and part-time workers who work at least a combined 4,000 hours a week. Business enterprises include private for-profit and not-for-profit entities as well as governmental or quasi-governmental organizations that engage in business and are separately organized from the regular government.

### **Employment Loss:**

The term "employment loss" means:

1. An employment termination, other than a discharge for cause, voluntary departure, or retirement;
2. A layoff exceeding 6 months; or
3. A reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.



## GLOSSARY OF WARN TERMS (continued)

An exception to this definition of employment loss is a case where a worker is reassigned or transferred to employer-sponsored programs, such as retraining or job search activities and the reassignment does not constitute an involuntary termination or a constructive discharge, and the employee continues to be paid.

### **Facility and Operating Unit:**

A facility refers to a separate building or buildings. An operating unit refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site. Whether a specific unit within an employer's organization is an operating unit depends on such factors as collective bargaining agreements, the employer's organizational structure, and industry understandings about what constitutes separate work functions.

### **Mass Layoff:**

The term "mass layoff" means a reduction in force that:

1. Does not result from a plant closing; or
2. Results in an employment loss at the single site of employment during any 30-day period for:
  - a. At least 50-499 employees if they represent at least 33% of the total active workforce at a single site of employment, excluding any part-time employees; or
  - b. 500 or more employees (excluding any part-time employees). In this case, the 33% rule does not apply.

### **Part-Time Worker:**

A part-time worker is an employee who averages less than 20 hours per week, or who has been employed for fewer than 6 of the last 12 months.

## GLOSSARY OF WARN TERMS (continued)

### **Plant Closing:**

A plant closing means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees, excluding part-time employees. All of the employment losses do not have to occur within the unit that is shut down. For example, if an employer closes its accounting department and lays off 40 workers and the employer also lays off 10 clerical workers who provided support to the accounting department but were not part of it, a covered plant closing has occurred.

### **Single Site of Employment:**

The term "single site of employment" may refer to:

1. 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. Also, several single sites of employment may exist within a single building if separate employers conduct activities within the building;
2. Separate buildings or areas that are not directly connected but are in reasonable proximity and that share staff and equipment; or
3. For workers who primarily travel:
  - a home base from which work is assigned; or
  - a home base to which workers report when:
    - a worker's primary duties require travel from point to point;
    - the worker's duties are outstationed; and
    - the worker's primary duties are outside any of the employer's regular employment sites.

## GLOSSARY OF WARN TERMS *(continued)*

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### **State Rapid Response Dislocated Worker Unit:**

A State Rapid Response Dislocated Worker Unit is a unit designated in each state by the Governor under the Workforce Investment Act to arrange with employers to provide on-site information to workers and employers about retraining and employment services such as labor market information, job search and placement assistance, on-the-job training, classroom training, basic and remedial education, and entrepreneurial training to help participants find new jobs.

## DIRECTORY OF INFORMATION AND CONTACTS

The following links connect you to detailed explanations about the WARN Act and other relevant information:

WARN Act Regulations:

[www.dol.gov/dol/compliance/comp-warn.htm](http://www.dol.gov/dol/compliance/comp-warn.htm)

WARN elaws Advisor:

[www.dol.gov/elaws/](http://www.dol.gov/elaws/)

WARN Act Fact Sheet:

[www.doleta.gov/programs/factsht/warn.htm](http://www.doleta.gov/programs/factsht/warn.htm)

Workforce Investment Act Facts:

[www.doleta.gov/usworkforce](http://www.doleta.gov/usworkforce)

Dislocated Worker Services:

[www.doleta.gov/layoff](http://www.doleta.gov/layoff)

Employee Benefits Security

Administration:

[www.dol.gov/ebsa](http://www.dol.gov/ebsa)

Employee Retirement and  
Income Security Act (ERISA):

[www.dol.gov/ebsa/regs](http://www.dol.gov/ebsa/regs)

America's Job Bank (AJB)<sup>®</sup>:

[www.careeronestop.org](http://www.careeronestop.org)

The following links connect you to contact information in your state and local area:

State Rapid Response Dislocated Worker Units:

[www.doleta.gov/layoff/e\\_sdwuc.asp](http://www.doleta.gov/layoff/e_sdwuc.asp)

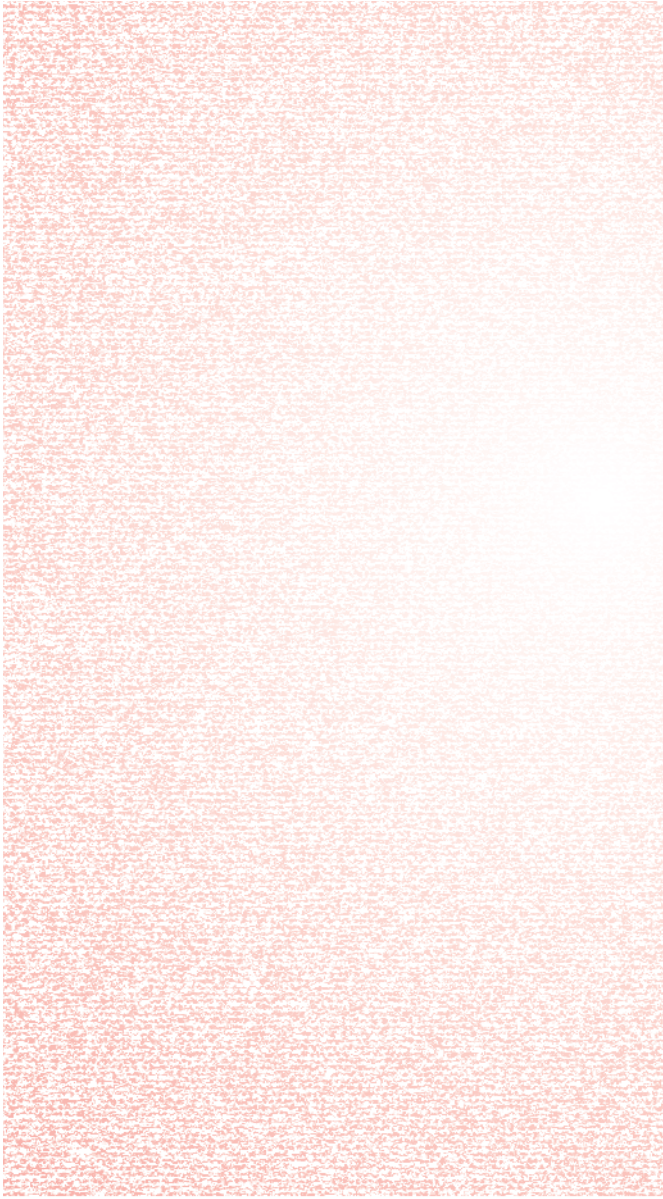
State Workforce Investment Act Liaisons:

[www.doleta.gov/usworkforce/asp/statecon.cfm](http://www.doleta.gov/usworkforce/asp/statecon.cfm)

One-Stop Career Centers in Your Area:

[www.servicelocator.org](http://www.servicelocator.org)

If you do not have Internet access, please call the National Toll-Free Help Line at 1-877-US-2JOBS (TTY 1-877-889-5627) to receive state and local contact information. You may also visit your local One-Stop Career Center to use the Internet to find information and services to help you.



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