

PANAMA
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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

With respect to the following, “layoff” is understood to be the involuntary termination of an employment agreement not strictly related to personal performance, but due to other factors such as economic cycles or reduction in force. The Labor Code of Panama allows the termination of an employment agreement due to economic causes such as permanent suspension of the tasks related to the labor agreement, business slow down, or interruption in work. The Labor Code of Panama requires the employer to prove the “economic cause” of the layoff before the administrative labor authorities who have to authorize the termination of the employment before it occurs. Employers must give the affected employee written notice of such termination and pay the affected employee with an indemnity that depends on the employee’s length of employment.

2. Are there any formal requirements for terminating an employee or groups of employees?

There are no further formal requirements other than the already mentioned prior authorization from the administrative labor authorities and the written notice to the affected employee.

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

No.

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

Under the Panama Labor Code, employees must be notified of the request for authorization filed by the employer before the administrative labor authorities. They also have the right to present evidence in support their position. An affected employee may claim “wrongful termination” if the employer fails to provide the required notification of the termination. The employee can also seek to be reintegrated to the workplace as a remedy for this termination.

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

Should termination of the labor agreement be considered by the labor courts to be “wrongful termination”, the employer shall pay the employee’s salary up to a five month period, in addition to the indemnity and a surcharge stated by law.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

The two most common mistakes made by employers are their failure to provide the affected employee the written notice and the failure to obtain authorization from the administrative labor authorities.

7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?

When terminations due to “economic causes”, the Panama Labor Code stipulates employees should be terminated in the following order: most recent employees; foreign employees; non-union employees; unskilled employees; and pregnant women.