



Printing Industries of CALIFORNIA

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Affiliated Associations:
Printing Industries Association Inc. of Southern California • Visual Media Alliance • Printing Industries Association of San Diego

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) INFORMATION FOR EMPLOYERS

WARN OVERVIEW

On January 1, 2003, California specific Worker Adjustment and Retraining Notification (WARN) requirements (Assembly Bill 2957, Chapter 4, Part 4, Sections 1400-1408, California Labor Code) became law. These Labor Code provisions expand upon requirements in the federal WARN legislation that was effective February 4, 1989.

WARN provides protection to employees, their families, and communities by requiring employers to give affected employees and other state and local representatives notice 60 days in advance of a plant closing or mass layoff. Advance notice provides employees and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skills training or retraining that will allow these employees to successfully compete in the job market.

GENERAL PROVISIONS OF THE FEDERAL AND CALIFORNIA WARN LAWS

Employers should carefully review the [California](#) WARN provisions and the [Federal](#) WARN law for a full understanding of the notification requirements.

Below is a side-by-side that provides the general parameters of the law:

General Provisions of the Federal and California WARN Laws	
Federal WARN Provisions	California WARN Provisions (Assembly Bill 2957, Koretz)
Covered Employers	
Applicable only to employers with 100 or more full-time employees who must have been employed for at least 6 months of the 12 months preceding the date of required notice in order to be counted. (29 USC 2101 and 20 CFR 639.3)	Applicable to a "covered establishment" with 75 or more employees full or part-time. As under the federal WARN, employees must have been employed for at least 6 months of the 12 months preceding the date of required notice in order to be counted. [California Labor Code Section 1400 (a) and (h)]
Plant Closing or Layoff Requiring Notice	
Plant closings involving 50 or more employees during a 30-day period. Layoffs within a 30-day period involving 50 to 499 full-time employees constituting at least 33% of the full-time workforce at a single site of employment. Layoffs of 500 or more are covered regardless of percentage of workforce. (29 USC, et seq., 2101 and 20 CFR 639.3)	Plant closing, layoff or relocation of 50 or more employees within a 30-day period regardless of percentage of work force. Relocation is defined as a move to a different location more than 100 miles away. [California Labor Code Section 1400 (c) and (d)]

Legal Jurisdiction	
<p>Enforcement of WARN requirements through United States district courts. The court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. (29 USC 2101, et seq)</p>	<p>Suit may be brought in "any court of competent jurisdiction". The court may award reasonable attorney's fees as part of costs to any prevailing plaintiff. The California WARN law is in the Labor Code and the authority to investigate through the examination of books and records is delegated to the Labor Commissioner. (California Labor Code Sections 1404 and 1406)</p>
Employer Liability	
<p>An employer who violates the WARN provisions is liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days, but no more than half the number of days the employee was employed by the employer. [29 USC; 2104 (a)].</p>	<p>A possible civil penalty of \$500 a day for each day of violation. Employees may receive back pay to be paid at employee's final rate or 3 year average rate of compensation, whichever is higher. In addition, employer is liable for cost of any medical expenses incurred by employees that would have been covered under an employee benefit plan. The employer is liable for period of violation up to 60 days or one-half the number of days the employee was employed whichever period is smaller. (California Labor Code Section 1403)</p>
Notice Requirements	
<p>An Employer must provide written notice 60-days prior to a plant closing or mass layoff to employees or their representative, the State dislocated worker unit (the Employment Development Department, Workforce Services Division in California), and the chief elected official of local government within which such closing or layoff is to occur. (29 USC, 2102; 20 CFR 639.5)</p>	<p>An employer must give notice 60-days prior to a plant closing, layoff or relocation. In addition to the notifications required under federal WARN, notice must also be given to the Local Workforce Investment Board, and the chief elected official of each city and county government within which the termination, relocation or mass layoff occurs. (California Labor Code Section 1401)</p>
Exceptions and Exemptions to Notice Requirements	
<p>Regular Federal, State, local and federally recognized Indian tribal governments are not covered. (29 USC, 2102 (a); 20 CFR 639.3)</p> <p>The following situations are exempt from notice:</p> <p>There is an offer to transfer employee to a different site within a reasonable commuting distance. (29 USC, 2101 (b) (2); 20 CFR 639.5)</p> <p>The closure is due to unforeseeable business circumstances, a natural disaster. (29 USC, 2103; 20 CFR 639.9)</p> <p>The closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirement of this chapter. [29 USC, 2103 (2)]</p>	<p>California WARN does not apply when the closing or layoff is the result of the completion of a particular project or undertaking of an employer subject to Wage Orders 11, 12 or 16, regulating the Motion Picture Industry, or Construction, Drilling, Logging and Mining Industries, and the employees were hired with the understanding that their employment was limited to the duration of that project or undertaking. [California Labor Code Section 1400 (g)]</p> <p>The notice requirements do not apply to employees involved in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary. [California Labor Code Section 1400 (g)(2)]</p> <p>Notice is not required if a mass layoff, relocation or plant closure is necessitated by a physical calamity or act of war. [California Labor Code Section 1401 (c)]</p>

	<p>Notice of a relocation or termination is not required where, under multiple and specific conditions, the employer submits documents to the Department of Industrial Relations (DIR) and the DIR determines that the employer was actively seeking capital or business, and a WARN notice would have precluded the employer from obtaining the capital or business. (California Labor Code Section 1402.5) This exception does not apply to notice of a mass layoff as defined in California Labor Code Section 1400 (d). [California Labor Code Section 1402.5 (d)]</p>
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HOW DO I FILE A WARN NOTICE?

To notify employees, any reasonable method of delivery designed to ensure receipt of notice at least 60 days before a plant closing or mass layoff is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option; however, a ticketed or preprinted notice regularly included in each employee’s paycheck or pay envelope does not meet the requirements.

The LWIA listing by [county](#) will assist in locating information about how to contact the chief elected officials in the communities affected by the planned layoff or closure. Select the website listed below the specific county.

Notice to the State of California Employment Development Department (EDD) should be addressed to:

WARN Act Coordinator
Program Communications Unit
Workforce Services Division
Employment Development Department
P.O. Box 826880, MIC 50
Sacramento, CA 94280-0001

Employers may also notify the EDD by e-mail at the following e-mail address: <mailto:eddwarnnotice@edd.ca.gov>.

Employers who provide notification by e-mail are not required to mail hard copy notification to the address above. Notification can be provided as an attachment to the e-mail or within the body of the e-mail itself. If notification is being provided as an attachment, the attachment should be compatible with Microsoft Office or Adobe Reader software. Employers should include contact information in the body of the e-mail in the event that an attachment cannot be opened. Employers may request acknowledgment of the receipt of their notification by adding the request to the body of the e-mail.

The content of the notices to required parties is listed in [Title 20 Code of Federal Regulations Section 639.7](#).

FORM AND CONTENT OF NOTICE

No particular form of notice is required; however, all notices submitted to the State Dislocated Worker Unit (*System Support Section, Workforce Services Division*) and chief elected official of the unit of local government must be in writing and should include the following content:

- The name and address of the employment site where the plant closing or mass layoff will occur;
- The name and phone number of a company name 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;
- The name of each union representing affected employees; and
- The name and address of the chief elected officer of each union.

WHAT HAPPENS AFTER AN EMPLOYER FILES A WARN NOTICE? (RAPID RESPONSE TEAMS)

The Employment Development Department (EDD) has established Rapid Response Teams to assist employers and workers during a mass layoff or plant closing. These teams, facilitated through the One-Stop Career Center System, are a cooperative effort between the Local Workforce Investment Area and the EDD. This team disseminates information on the adult and dislocated worker services available under Title I of the Workforce Investment Act and through the [America's Job Center of CaliforniaSM](#) (AJCC), formerly known as One-Stop Career Centers, and Unemployment Insurance programs. If the dislocation is the result of foreign competition or foreign relocation, the dislocated worker may be eligible for assistance, income support, job search assistance/relocation, and/or training under the Trade Adjustment Assistance (TAA).

LISTING OF WARN NOTICES

WARN notices include the Local Workforce Investment Area where the closure or layoff occurred.

There is an online directory of [Local Workforce Investment Areas](#) available.**

**You may need to [download the free Adobe Reader](#) to view and print linked documents.