

WARN ACT ADVISORY - CORONAVIRUS UPDATE

By Andrew Shalauta

The WARN (Worker Adjustment and Retraining Notification) Act applies to California businesses that currently employ or have employed 75 or more employees within the preceding 12 months. The WARN Act requires employers to provide written advance notice to employees where the business is either (1) temporarily shutting down operations, or (2) ordering a mass layoff of any 50 or more employees (full-time or part-time) in any 30-day period. The California WARN Act applies to permanent layoffs, and temporary layoffs and furloughs.

Although the Governor recently signed Executive Order N-31-20 in response to the Coronavirus pandemic (relieving California employers of some of the WARN Act notice requirements), the Executive Order still requires an employer to issue proper written advance notices of a layoff, relocation, or termination.

Under the Executive Order, an employer must still (1) give written notice to all employees affected by a layoff, relocation, or termination, and to the Employment Development Department, 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; (2) include in the notice the elements required by the federal WARN Act; (3) include a brief statement of the basis for reducing the notification period, i.e. that the mass layoff was caused by COVID-19-related business circumstances that were not reasonably foreseeable as of the time the notice would have been required; and (4) a statement about

eligibility for Unemployment Insurance (UI).

The notices should be sent as soon as possible, but the 60-day requirement for advanced notice has been suspended by the Executive Order for the duration of the California state of emergency. Failure to provide a WARN Act notice can result in liability of up to 60 days' pay and benefits, and civil penalties.

Our [Employment Department](#) can assist with the necessary notices, and answer any questions you may have regarding the WARN Act.



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