

20.8A. Worker Adjustment and Retraining Notification (WARN)

Workforce Innovation and Opportunity Act (WIOA)

20.8A.1. Purpose

Iowa Workforce Development (IWD) has been designated by the Governor as the State department responsible to administer the provisions of the Worker Adjustment and Retraining Notification Act (WARN) and Workforce Innovation and Opportunity Act (WIOA) and to serve as the lead state agency for the coordination of services to workers and communities affected by business closings and mass layoffs, otherwise known as Rapid Response. WIOA and WARN legislation contain specific requirements for employers and Rapid Response Coordination in the event of a business closing or mass layoff.

As the lead agency for Rapid Response, IWD must coordinate, communicate, and work with Regional IowaWORKS leadership (WIOA Title I Directors and IWD Operations Managers), Workforce Development Boards (WDBs), Chief Elected Officials (CEOs), and other stakeholders as appropriate. This will ensure coordination with all relevant parties so rapid response services can be delivered effectively.

20.8A.2. WARN Law and Requirements

The Federal WARN law requires employers, with some exceptions, to give at least (60) days advance notice of a business closing or mass layoff. Both Federal and Iowa WARN were enacted to establish mandatory advance notice requirements in certain cases of plant closings and mass layoffs. WARN offers protection to workers, their families and communities by requiring employers to provide advance notice of plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g., a labor union); to the State Dislocated Worker Unit (SDWU); and to the appropriate unit of local government (CEO). WARN only applies to qualifying temporary and permanent closings and mass layoffs. The following guidelines should be used to review and enhance local policies relating to WARN and Rapid Response in the Iowa's local workforce development areas.

20.1A.2.1. Federal WARN LAW Basic Requirements and Definitions

The Worker Adjustment and Retraining Notification Act (**WARN**) was enacted on August 4, 1988 and became effective on February 4, 1989.

Employer Coverage

In general, employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than 6 months in the last 12 months and not counting employees who work an average of less than 20 hours a week. Private, for-profit employers and private, nonprofit employers are covered, as are public and quasi-public entities which operate in a commercial context and are separately organized from the regular government. Regular Federal, State, and local government entities which provide public services are not covered.

Employee Coverage

Employees entitled to notice under **WARN** include hourly and salaried workers, as well as managerial and supervisory employees. Business partners are not entitled to notice.

What Triggers Notice

Plant Closing:

A covered employer must give notice if an employment site (or one or more facilities or operating units within an employment site) will be shut down, and the shutdown will result in an employment loss for 50 or more employees during any 30-day period. This does not count employees who have worked less than 6 months in the last 12 months or employees who work an average of less than 20 hours a week for that employer. These latter groups, however, are entitled to notice.

Mass Layoff:

A covered employer must give notice if there is to be a mass layoff which does not result from a plant closing, but which will result in an employment loss at the employment site during any 30-day period for 500 or more employees, or for 50-499 employees if they make up at least 33% of the employer's active workforce. Again, this does not count employees who have worked less than 6 months in the last 12 months or employees who work an average of less than 20 hours a week for that employer. These latter groups, however, are entitled to notice.

Employment Loss

The term "employment loss" means:

- An employment termination, other than a discharge for cause, voluntary departure, or retirement;
- A layoff exceeding 6 months; or
- A reduction in an employee's hours of work of more than 50% in each month of any 6-month period.

More Information

Specific requirements of the Worker Adjustment and Retraining Notification Act may be found in the Act itself, Public Law 100-379 (29 U.S.C. 2101, et seq.) The Department of Labor published final regulations on April 20, 1989 in the Federal Register (Vol. 54, No. 75). The regulations appear at 20 CFR Part 639.

<https://www.doleta.gov/programs/factsht/warn.htm>

Iowa WARN Law

As with the Federal WARN requirements, an Iowa employer who plans a business closing or a mass layoff shall provide notice to the impacted workforce. Iowa WARN Law stipulates no action until the end of a thirty-day period which begins after the employer serves written notice to the affected employees or their representatives and to the department. When applicable collective bargaining agreement designates a different notice period, the notice period in the collective bargaining agreement shall supersede the notice timeframe.

Iowa WARN Definitions

“Business closing” means the permanent or temporary shutdown of a single site of employment of one or more facilities or operating units that will result in an employment loss for 25 or more employees, other than part-time employees.

“Mass layoff” means a reduction in employment force that is not the result of a business closing and results in an employment loss at a single site of employment during any thirty-day period of 25 or more employees, other than part-time employees

WARN Notice Minimum Requirements

In the event of a temporary or permanent business closure, a notice must be provided. No specific format is required the notice, but the following information, at a minimum, should be included in the WARN Notice:

- Name and address of the impacted business;
- Name and telephone number of a company official to contact;
- Name and telephone number of the collective bargaining unit(s), (if appropriate);
- Dates of planned separation;
- A statement indicating if this action is expected to be permanent or temporary;
- The expected date of the first separation and schedule for further separations; and
- The job titles of affected positions and the names of workers currently holding the jobs.

The WARN notice must be transmitted to affected workers and their collective bargaining representatives, to the appropriate unit of local government and to Iowa Workforce Development.

Enforcement of the WARN legislation is through U.S. District Court. If a business is found to be in violation, the employer is liable to pay each employee an amount equal to the pay and benefits the worker would have received during the 60-day violation period. There are certain exceptions to WARN which allow for delayed or waiver of notice, it is important to note that an employer is also subject to a civil penalty not to exceed \$500 for each day of violation. For more information on exceptions, waivers, and other WARN Act information, got to: http://www.dol.gov/dol/allcfr/ETA/Title_20/Part_639/toc.htm.

For Iowa state level Iowa WARN – Iowa Code – Chapter 84C “Iowa Worker Adjustment and Retraining Notification Act” information, go to: <https://www.legis.iowa.gov/docs/code/2014/84C.pdf>.

Table 1: Applicable Laws

	Iowa Layoff Notification Law	Federal WARN Act
Applies to:	Companies with 25 or more employees.	Companies with 100 or more employees.
Goes into effect when:	A permanent or temporary shutdown or mass layoff of 25 or more employees for a period exceeding 6 months.	Closing: when 50 or more employees will be affected during a 30-day period. Mass Layoff: when 500 or more employees or 33% of the workforce will permanently lose their job during a 30-day period.
Length of notice required:	30-days	60-days
Information required in the notice:	Company Name, Address, Business Contact Information, Date of Event, Names and Addresses of Affected Employees	Company Name, Address, Business Contact Information, Date of Event, Names and Addresses of Affected Employees
Enforcement through:	Iowa Workforce Development	US Department of Labor & United States District Courts
Contact information:	State Rapid Response Coordinator Iowa Workforce Development 1000 East Grand Avenue Des Moines, IA 50319	U.S. Department of Labor Employment & Training Administration Office of Work-Based Learning Room N-5426

Iowa Layoff Notification Law	Federal WARN Act
Phone: 515-725-2007	200 Constitution Avenue NW
Fax: 515-281-9641	Washington, DC 20210
Email: dislocated.worker@iwd.iowa.gov	Phone: 202-219-5577

All WARN Notices are received by the State Rapid Response (RR) Coordinator in the State Dislocated Worker Unit (SDWU). All WARN Notices, regardless of type, are logged by the RR Coordinator and posted to the agency website.

20.1A.2.2. Worker Adjustment and Retraining Notification Act Natural Disaster Fact Sheet General Provisions

The Worker Adjustment and Retraining Notification (WARN) Act requires certain employers to provide at least 60 calendar days advance written notice of a plant closing or mass layoff affecting 50 or more employees at a single site of employment. The Act makes certain exceptions to the requirements when dislocations occur due to natural disasters if the employees are unreachable and the employment site is destroyed.

The following responses represent the U.S. Department of Labor's best reading of the WARN Act and regulations. Employers should be aware that the U.S. Federal Court solely enforces the Act and these answers are not binding on the courts:

- When a plant closure or a mass layoff is the direct result of a natural disaster such as a hurricane, flood, earthquake, drought, storm, tidal wave, or similar events caused by nature, employers are obligated to give as much notice as possible, even if the notice comes after a disaster. To comply with the law, the employer may send notice to the employee's last known address, even if their homes are destroyed. This would indicate good faith. The regulations recognize that the available information may be limited.
- If the plant is destroyed as a result of a natural disaster and the employment records are all gone, and the employer cannot send individual notices, the employer should try to show good faith by either posting notices at the worksite including a statement that individual notice is not possible because the employment records have been destroyed or by providing a notice in a newspaper to the same effect or both.
- If the employer does not have access to its employment site or employees' last known address, the employer should do what it would do if the plant is destroyed. In all likelihood, if the employer gave no notice in those circumstances, it may not be held liable for failure. On the other hand, if the employer wants to rebuild, it may be in its interest to make efforts to contact its employees to be sure it has a workforce when it reopens.

Additional Information for all WARN Act questions or for more information concerning natural disasters under WARN contact: U.S. Department of Labor, Employment and Training Administration Office of National Response Division of Worker Dislocation and Special Response 200 Constitution Avenue, N.W., Room C5311 Washington, D.C. 20210 (202) 693-3519