

When businesses fail to cooperate with information requests during layoffs or closures, both federal Rapid Response guidance (U.S. Department of Labor, Employment and Training Administration) and Minnesota’s DEED protocol **emphasize collaboration over enforcement**. However, there are important distinctions in compliance expectations and consequences that impact employer relationships.

1. What happens when businesses don’t comply with information requests during a layoff or closure? We’ve had experiences where some businesses are unwilling to share details about those impacted, which is unfortunate.

- **When Businesses Don’t Comply**

Under the federal Workforce Innovation and Opportunity Act (WIOA) Rapid Response framework, **employers are expected—but not criminally compelled—to provide accurate and timely information to state Rapid Response teams** to enable coordination of worker transition services. **Per 20 CFR Part 682 Subpart C, states must make immediate and on-site contact with employers and workers but do not have statutory authority to penalize employers who refuse cooperation.** Noncompliance typically results in limited access to Rapid Response and DW related benefits, and the case may be marked as incomplete in state workforce databases.

Minnesota’s DEED Layoff and Business Closure Resources page reaffirms this collaborative model. Rapid Response teams reach out early to minimize disruption and offer information on Layoff Aversion, customized services provided by the Dislocated Worker program such as access to career counselors, counselor approved training, workshops, and support services as well as information on accessing and applying for unemployment. When employers are unwilling to share affected worker data, DEED documents the gap, offers alternative contact options through unions or community partners, and continues outreach.

The State Rapid Response Team works to exhaust all means to engage with the employer (including but not limited to reaching out to our local WDA partners, unions if applicable, and other partners within the state (WSC’s, EEST’s, BCD) and if we are still unable to reach the employer within a **three week period for compliance**, the team will close out the layoff to Small Layoff Referral. Workers may still access Rapid Response and Unemployment Insurance (UI) benefits individually through DEED One Stop Centers.

2. Are businesses required to comply with SRRT and UI reporting? If not, what are the consequences—and how can we better communicate this to businesses?

- **SRRT and UI Reporting**

Employers are **required by law to comply with Unemployment Insurance (UI) reporting**, including wage and separation information, under Minnesota Statutes Chapter 268. Failure to provide accurate UI reports can result in administrative penalties, delayed benefit eligibility for workers, and—in severe cases—civil sanctions.

By contrast, State Rapid Response Team (SRRT) reporting and participation are not legally mandatory. These activities are covered under WIOA §134(a)(2)(A) and 20 CFR §682.330, which mandate states to offer Rapid Response but do not compel employer participation. Non-participation doesn't carry a penalty but restricts access to tailored reemployment support and layoff aversion strategies.

The federal Worker Adjustment and Retraining Notification (WARN) Act imposes both financial and legal liabilities on employers who fail to issue required layoff or closure notices. These penalties are enforced through the U.S. courts rather than directly by the Department of Labor.

Federal WARN Act Penalties

1. Back Pay and Benefits to Employees

Employers that do not provide the required 60-day advance notice must pay each affected employee up to 60 days' worth of back pay and benefits. This includes salary, health insurance, and other employment benefits that would have been earned during the violation period.

2. Civil Penalty to Local Government

If an employer fails to notify the appropriate local unit of government, they are subject to a **civil penalty of up to \$500 per day for each day of violation**. However, this penalty can be waived if the employer pays all owed employee compensation within three weeks after the closure or layoff.

3. Attorney's Fees and Court Costs

Courts may award reasonable attorney's fees and costs to the prevailing party in

WARN-related lawsuits, which may be brought by affected workers, unions, or local governments.

4. Enforcement Mechanism

The U.S. Department of Labor does not enforce WARN. Compliance is pursued through civil action in federal district courts, where **affected workers or municipalities can sue for damages.** This means enforcement depends on litigation rather than administrative fines.

Additional Notes

State-specific WARN laws, such as Minnesota’s plant closing statutes, mirror the federal rules and may add reporting or notice requirements at the state level, sometimes with separate penalties. Employers operating in multiple states must comply with both federal and applicable state WARN provisions.

In essence, failure to file or provide WARN notice can result in substantial financial costs—both in direct payments to workers and daily penalties—and reputational harm during any legal proceedings.

3. How can we position Rapid Response/WDI and related programs (like Shared Work) as proactive resources?
 - **Positioning Rapid Response and Shared Work as Proactive Resources (SRRT Layoff Aversion Handout and Strategy)**

To encourage cooperation, both USDOL and DEED recommend reframing Rapid Response and related programs like Minnesota’s Shared Work Program as **business continuity and talent retention strategies**, not reactive compliance functions. We always say we need to be PROACTIVE and not reactive.

Key approaches include:

- **Early engagement:** Encourage employers to contact DEED’s State Rapid Response Team (SRRT) at the first sign of financial distress or restructuring, even before layoffs.
- **Early notification of employer downsizing/closing. (SRRT)**
 - a. Develop an Early Warning Network and Indicators

- b. Asset Mapping: Continue to build on the existing work of identifying key resources in the community that have the potential to provide assistance to the targeted employer/employees.
 - c. Develop and implement strategy notification of employer downsizing
 - d. Feasibility evaluation and consultation by Rapid Response team
 - e. Provide customized aversion strategies or rapid response (RR) services as needed
- **Highlight cost savings:**
 - **Shared Work** allows reduced employee hours instead of layoffs while employees collect partial UI benefits—a direct retention incentive.
 - **Incumbent Worker Training (IWT)**
These are state- or federally funded programs that help employers upskill existing employees to meet productivity challenges or implement new technologies. IWT grants can offset costs of professional certifications and prevent job losses related to automation or restructuring.
 - **On-the-Job Training (OJT) and Skills Upgrading**
OJT programs subsidize training for workers to acquire new skills aligned with evolving business needs. By retraining employees instead of laying them off, companies maintain institutional knowledge and improve adaptability to technological or market changes.
 - **Promote partnership benefits:** Present Rapid Response as a one-stop resource integrating UI, retraining, and outplacement, helping stabilize operations and preserve brand reputation.
 - **Communicate value, not obligation:** Use empathetic, business-focused messaging emphasizing outcomes—workforce stability, positive public image, and reduced rehiring costs.

Below are the detailed recommended strategies and best practices for proactive engagement and layoff aversion developed for the state of Minnesota:

STATE RAPID RESPONSE TEAM (SRRT)

Early notification of employer downsizing/closing.

- a. Pre-engagement –
 - i. Employer
 - ii. Employee,
 - iii. CareerForce Staff
 - iv. Media
 - v. Regional Partner
 - vi. Workforce Strategy Consultant (WSC)
 - vii. Other
 - 1. Upon notification of layoff for closure, immediately contact RR prior to communication with employer.
 - 2. Provide RR with employer contact information if available.

- b. Early Warning Network-
 - i. Notification of employer downsizing
 - ii. Location close/downsizing date
 - iii. Number of employee layoffs
 - iv. Positions
 - v. Skillsets
 - vi. Location
 - vii. Confidentiality status

- c. Worker Adjustment Retraining Notification (WARN) Notice

- d. Rapid Response will identify Local Workforce Development Area (LWDA) Rapid Response Liaison and identified partner(s) involved in process.
 - i. Depending on Mass Layoff Grant Project Process, partners may be included in full RR Process.

- e. RR & WSCs – Discuss workforce transition plan
 - i. Human Capital Sharing pilot
 - ii. Human Capital Sharing/Upskilling pilot – training for new position

- iii. Other strategies (from MAWB, etc.) – TBD

- f. Employer Engagement Specialists (EES) and Workforce Strategy Consultants (WSC) outreach to employer(s) with similar needs
 - i. Specific employer
 - ii. Group of employers

SRRT Layoff Aversion Strategy:

1. Develop an Early Warning Network and Indicators

- a. Early Warning Monitoring: Using industry and labor market systems and networks to monitor and predict plant closures to implement response and prevention strategies.
- b. Early warning systems include early warning networks and community partners such as:
 - i. Local Chamber of Commerce
 - ii. City/County Economic Development
 - iii. Other state agencies (Divisions within DEED)
 - iv. Regional Partner (Workforce Development Area – WDA)
 - v. CareerForce staff
 - vi. Workforce Strategy Consultant (WSC)
 - vii. Media
 - viii. Other

2. Asset Mapping

Identify key resources in the community who have the potential to provide assistance to the targeted employer/employees.

- a. Chambers of Commerce
- b. Local, regional, or state economic development entities
- c. Local banks, and utility companies
- d. Local elected officials
- e. Two and Four-Year Colleges and Universities
- f. Labor and Management Associations
- g. City/County Economic Development
- h. Telecommunications/Media Companies

- i. Accounting and Law Firms
 - j. CareerForce/ LWDA
 - k. Community-Based Organizations
 - l. Others
3. Develop and Implement Strategy Notification of Employer Downsizing-
- a. Develop commitment to ongoing meetings and communication for the Early Warning Network.
 - b. Engage WSC's in proactive measures to identify indicators of potential economic transitions and training needs both in growing industries and those in decline.
 - c. Partner with business representatives that work with the companies (Helping them with continuous improvement in processes and quality and constantly looking for opportunities for new products, customers, markets, and business models).
4. Feasibility Evaluation and Consultation by RR
- a. Organizational structure: Present salary structure, possible willingness of all stakeholders to restructure operations, work system, and compensation as a last alternative.
 - b. Market: Trends in the industry, the company's market share, etc.
 - c. Operations/manufacturing: Condition of equipment, equipment as compared to state-of-the-art, potential need for capital investment.
 - d. Financial: A preliminary evaluation of a purchase price, the company's present profitability and expenses, the ability of a potential buyer to finance the purchase.
 - e. Legal: Prospects for a smooth ownership change and other restructuring issues.
 - f. Conclusions and methodology: Recommendation to proceed or not, and how.
5. Provide Customized Aversion Strategies or RR services as needed
- a. Assess what the underlying cause of the possible layoff or closure decision is to help determine the best strategy.

- b. Other potential Layoff Aversion strategies:
 - i. New Human Capital Sharing program
 - ii. Shared Work
 - iii. Incumbent Worker Training
 - iv. Talent Transfer
 - v. Unemployment Insurance Partnership
 - vi. RETAIN- Retaining Employment and Talent After Injury Illness Network
 - vii. ESOP- Employee Stock Ownership Plan
 - viii. Others