

# Have Layoffs Triggered a Partial Plan Termination?

Although qualified plans are established with the intention of continuing indefinitely, at some point you may decide to terminate your plan. While this decision is generally voluntary, there is another type of plan termination that could occur without you even knowing it happened. Caution is advised: When downsizing or laying off employees, a “partial plan termination” may occur if enough employees are terminated.

## What is a Partial Plan Termination?

A partial plan termination occurs when there is a substantial number of employees terminating as of a certain date or over a certain period. As a general rule, if your turnover rate is at least 20%, there is a presumption that a partial termination has occurred. Your turnover rate only includes employees who had an “employer-initiated severance.” It would not include severance due to death, disability or retirement, nor would it include any voluntary terminations.

Whether a significant reduction of the workforce results in a partial termination, however, is ultimately based on a facts and circumstances analysis, taking into account such factors as your turnover rate in other periods and the extent to which terminated employees are replaced. In addition, a partial plan termination can be triggered by a one-time event or by a series of reductions in your workforce over the plan year or even over several years.

Why is it important to properly identify when a partial plan termination has occurred? The law requires that if a partial plan termination occurs, the participants affected must become 100% vested in their benefits.

## The Small Employer Problem

The 20% turnover rate is especially problematic for small employers. The termination of just one or two employees could result in a partial plan termination.

*Example:* A plan has 5 participants, but due to economic conditions, 1 employee is terminated. Since the turnover rate is 20% ( $1 \div 5$ ), the presumption is that a partial plan termination has occurred.

## Possible Triggering Events

Be aware of the following events that could result in a partial plan termination:

- Layoffs, downsizing or restructuring
- Plant or division closing
- Sale of a line of business
- Plan amendment that excludes employees previously covered
- Plan amendment that adversely affects participants’ rights to vest in benefits

Significant reductions in your workforce can impact your plan, possibly triggering a partial plan termination. Failure to fully vest affected employees due to a partial plan termination can result in disqualification of your plan. To keep your plan in compliance, please contact us to identify the impact of any layoffs or downsizing on your qualified plan.

Be sure to document the circumstances of each employee’s termination and keep supporting records verifying that a termination was purely voluntary!

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**Benefits Administrators, LLC**  
269 West Main Street, Suite 700  
Lexington, KY, 40507  
(859) 255 - 1154  
[www.benadms.com](http://www.benadms.com)  
[lobryan@benadms.com](mailto:lobryan@benadms.com)