

Guidelines for Conducting a Termination

Terminating an employee is seldom an enjoyable task. However, it is a task that should be handled properly to minimize any bad feelings and avoid legal trouble. Like many business activities that deal with employees, terminations must be handled with fairness, diplomacy, and care. Good, accurate documentation is a necessity, and working knowledge of your company's policies and procedures is a must.

Describe the reasons for termination

There are laws that protect employees from wrongful termination. Many of these laws cover discrimination. Companies must be careful of the "who, what, when, where, why, and how" of terminations. In general, the reasons employees are terminated fall within three categories:

- Performance
- Gross Misconduct
- Economics

Performance

If an employee is terminated because of poor performance, you should be able to provide accurate and sufficient documentation to support the decision. Some performance reasons for termination include:

- Absenteeism
- Tardiness
- Abusing Sick Leave
- Not meeting job requirements
- Not following company policies and procedures

Gross Misconduct

Gross misconduct is the type of behavior in which an employee knowingly violates a company policy or procedure, or state, local, or federal law. Examples include skirting occupational safety and health rules by removing a machine guard or bringing a weapon to work.

Economics

The economic climate may occasionally force a company to release some of its workforce or shut down. The shut down may be temporary or permanent, but either way, employees will be out of a job. Decisions as to who will be included in the reduction need to be handled fairly, based on seniority, performance, and duplicative tasks.

Illegal Reasons

As a supervisor or manager, you want to ensure that the employee is not being released based on discriminatory issues including:

- Race
- Gender
- National Origin
- Disability

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- Age
- Religion

Pregnancy and its complications are also included. If you use any of these as reasons for a termination, the employee could file a charge and your company may find itself in a court of law trying to defend its decision.

Retaliation

If employees complain about the conduct of their employer, the employer cannot legally retaliate because of their complaint. For example, if an employee files a complaint with OSHA for what he or she believes is a violation of safety regulations, the employer cannot fire that employee for filing such a complaint. The same is true of any discrimination claims.

Steps in a Termination

Once it has been decided that an employee is to be terminated, you have some preparatory work to do. Adequate preparation before termination can help keep your company out of a court room, and also keep other employees from losing faith in your ability to treat everyone fairly.

Some experts suggest an investigation and contacting appropriate legal counsel before such an undertaking. However your company chooses to handle it, notifying an employee of a termination is best done in a face-to-face situation. The following steps provide guidance in conducting a termination.

1. Prepare Your Documents

Gather the documents that support the decision to terminate the employee. This includes the job description, performance appraisals, any discipline reports, witness statements, notes, memos, or letters that pertain to the employee's performance or behavior. It also includes a termination letter, contracts, or benefit forms

2. Rehearse

It will be useful to make notes to remind yourself of important details that you need to cover during the meeting. Sometimes saying things out loud gives you a different perspective of how your message sounds.

3. Schedule the Meeting

During a termination, allow for as much dignity as possible. One way to do this is to schedule the termination meeting during a time that affords the employee the most privacy. Avoid interruptions and pick a location that is away from gathering areas, such as a lunch or break room.

4. Witness

You may want to schedule the meeting to include a neutral witness, perhaps someone from HR. This person can take notes for the employee's file and can act as a witness in the future if needed.

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5. Prepare the Meeting Room

You may want to use a room that has no telephone, which could cause interruptions. If the termination is difficult, or the employee is aggressive or angry, you may also want to ensure that the room is free from objects that may be used as weapons. In this case, notify a security guard or local police to be on stand-by if you fear a confrontation.

Adding a box of tissue to the room is a good idea. If the room has a door, you may want to make sure it can be closed. If there is a window that looks out over another part of the facility, you should close the blinds or otherwise block it.

6. Get to the Point

Once everyone arrives for the meeting, get to the point. Indicate the specific reason for the termination, and have a termination letter ready to be signed or paper to allow the employee to write his or her own. Make sure the employee understands that he or she has been terminated.

7. Encourage Employee to Talk

When people are allowed to talk, they may be able to get out feelings of anger or frustration. Once these feelings are released, they can focus on what they can do and what their next step will be. The employee may offer information that can be useful in other existing employment practices.

8. Avoid Arguments

Be sensitive to the employee's concerns but do not engage in an argument. Help him or her to understand that this is a business decision. Do not agree with the employee's arguments or undermine the decision.

If the employee attempts to engage you in a shouting match, let him or her shout. When you respond, keep your voice even and maintain eye contact. Do not speak in condescending terms or abusive language.

9. Go over Benefits

When an employee is terminated, the employer-employee relationship ends, but some of the benefits the employee enjoyed while working may continue. Review the employee's severance package. Discuss COBRA, HIPAA, unemployment compensation, career counseling, and any other benefits that the company offers.

10. Discuss References

If your company provides references or letters of recommendations, discuss the contents with the employee. Ask the employee to sign a release so you can give prospective employers the information.

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11. Answer Questions

Ask the employee if he or she has any final questions. Be honest in your responses, but don't let yourself be blamed for the termination. Let the employee know who to contact if he or she should have any questions in the future.

12. The Golden Rule

Just as there is a wide variety of employees, there also is a wide variety of circumstances surrounding a termination. If you treat the employee as you would want to be treated in the same situation, the experience should, in most cases, be less difficult.