

Time to Say Good-Bye - The Termination Process

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Termination, involuntary separation, firing, discharge – whatever term you use, it still means that someone (you, most likely) has to make a hard decision affecting another person's livelihood. Then, to make things worse, someone (you, most likely) has to *tell* that person that they are no longer employed. Discharging an employee is never easy and it shouldn't be. But, it doesn't have to be a horrible, traumatic nightmare, either. By following these steps, you may be able to reduce the stress associated with discharge and minimize the potential for ending up in court.

1. Follow your own policies. If you have a publicized progressive discipline policy, this remains of the utmost importance. For example, if your policy calls for a sequence of progressively stronger disciplinary action, follow the sequence unless there is a compelling, business-related reason to bypass the steps. If you do not have a stated policy, follow your own past practice.
2. Be consistent. While you do not have to treat everyone the exact same way, you should treat employees with similar jobs, performance histories, seniority, etc. as consistently as possible. The same is true with similar behavior. For example, if several of your employees are habitually late to work, it would be inconsistent to fire an employee who is late on occasion.
3. Get the facts. Investigate fully and fairly before you terminate – especially in cases of misconduct and situations where you do not have firsthand knowledge of what has happened. Document the results of the investigation and reasons for termination to show that you followed your own policies.
4. Consider your legal position. Consider what legal claims could arise from the termination. Could the employee charge retaliation, discrimination or violation of federal laws such as the Family and Medical Leave Act or Americans with Disabilities Act? If you have concerns, consult legal counsel for assistance.
5. Plan for the termination meeting. Review your documentation for completeness and accuracy. Prepare a checklist of company property to be recovered, if any. Have any final paperwork ready for the employee. Check your state's requirements for timing of final pay, vacation payments or other information you may be required to provide to a discharged employee. Choose a time and place to meet with the employee. Ensure that you will have privacy and not be interrupted during the meeting. Select appropriate attendees for the meeting and advise them of the schedule. Consider the best way to collect the employee's personal property – cleaning out a locker or desk in front of co-workers is not a particularly comfortable situation for anyone. (TIP: Friday at the end of the day is probably the WORST time to terminate an employee. Choose a day mid-week and take care of things early in the day whenever possible.)
6. Be truthful, brief and don't apologize. Attempts to break the news gently or sugarcoat the situation will always backfire on you. Give the employee the facts that led to the termination. Do not interject your personal opinion or give advice.

Do not call a termination a “layoff.” Don’t try to spare the employee’s feelings by indicating you disagree with the decision or that you are sorry for what is happening. Such misguided attempts to be the “nice” guy actually encourage lawsuits and may be used against you. The majority of terminations are handled in a businesslike manner. Most employees, especially when progressive discipline has been followed, are not surprised. However, mentally prepare yourself for an employee’s angry or tearful reaction. Do not allow yourself to be drawn into a debate or put in the position of justifying your decision. If the meeting gets out of control, end it and finish up what you have to do by phone or mail.

7. Discuss the termination only with those who have a legitimate need to know – the employee’s supervisor, legal counsel, etc. Co-workers and others have no need to know the details (they probably know more than you do already). Beyond advising them that the person is no longer associated with the company, you are under no obligation to answer questions. If someone is persistent, a good response is to say, “It is a private matter between the company and the employee. If it were you, I am sure you would want us to respect your privacy.”

Mishandled terminations can lower employee morale and lead to lawsuits. However, tolerating poor performance or disruptive behavior remains bad for morale, as well as productivity and efficiency. Developing your process and following it consistently will give you confidence when you must undertake the unpleasant (but sometimes necessary) task of discharging an employee.

If you would like to discuss this, or any HR topic, you have access to the HR HOTLINE – a recommended service provided through your I-NEDA membership. Please contact the Association office at 515-223-5119 for more information.