

DO YOUR HOMEWORK BEFORE TERMINATING AN EMPLOYEE

When terminating an employee, timing is everything. While it is important for a supervisor to investigate and address problem behavior promptly, the termination decision should not be made in haste. The act of terminating an employee has tremendous potential impact, both for the individual being fired and for the company doing the firing, so it shouldn't be approached lightly. A manager should never fire an employee when she is angry. Rather, some time should pass for tempers to simmer down and cooler heads to prevail. When determining whether to terminate an employee, the manager should ask herself the following questions:

Was the employee forewarned of the possible disciplinary consequences of his or her actions? As a general rule, discharge should never come as a surprise to an employee. If good management practices have been followed, the employee has been counseled and/or warned that termination may occur if the problem behavior is not corrected. (The importance of documenting these warnings cannot be overstated.) An exception to the need to forewarn an employee occurs in a situation where the employee was engaging in an unlawful activity during the course of his employment. In these cases, forewarning is not necessary.

Were management's requirements of the employee reasonable? Sometimes management forgets that employees are not superhuman. When an individual's future employment is at stake, a review of management's expectations is in order.

Has management made a reasonable effort to establish that the employee is, in fact, "guilty as charged"? Hearsay and gossip abound in the workplace. Management is responsible for verifying the facts before terminating an employee.

Has management treated this employee as it has other employees in similar circumstances? This is a critical question in terms of avoiding a wrongful discharge or discrimination lawsuit. Even the appearance of an employee's age, gender, ethnicity, disability, religion, or national origin influencing a termination decision must be avoided.

If, after weighing the responses to these questions, the manager decides to proceed with the termination, a call to an employment law attorney is in order.

Chances are, the employer who has done his homework in preparing for a termination is going to be on solid legal ground, but in our litigious world, seeking a final "go ahead" for termination from an attorney is a wise move.

The actual termination meeting with the employee should be held in neutral territory, such as a conference room. No interruptions should be allowed; the privacy of the meeting is very important. A maximum of two company representatives should attend the termination meeting - ideally the employee's direct supervisor and that individual's manager or a human resources representative. The tone of this meeting should be as cordial as possible to reduce the possibility of the discussion escalating to a shouting match. An exhaustive recap of the details of the individual's employment with the company is not necessary and should be avoided; just the facts leading to the termination decision are necessary.

Employers are not required to offer severance packages to terminated employees. Some offer severance occasionally, based on the circumstances surrounding each particular termination. A wiser approach with regard to avoiding potential discrimination claims, however, is to adopt a severance policy and stick with it in all situations. For security reasons and to avoid unpleasant confrontations with co-workers, the terminated employee should not be permitted to return to his work area unescorted. His supervisor can offer to collect personal belongings from his desk or to accompany the employee while he collects them. Under no circumstances should a terminated employee be permitted to return to work, even for a few hours.

One final note... An essential part of the termination meeting is telling the employee why he is being fired. In my days as a corporate human resources manager, I asked dozens of job applicants why they had been discharged from a previous job. More often than not, their response was something like, "I just don't know. I thought everything was going fine and then one day they just up and fired me." Call me cynical, but I frankly didn't believe these answers. Now that I work as a consultant to business regarding human resources issues, these answers seem more believable. For some reason, the termination rationale with many companies is "the less said, the better". Terminating an employee, like all aspects of management, requires direct and accurate communication. If the company gives no reason for the termination, the employee will come up with one. In the employee's anger, frustration, and resentment, the reason he comes up with will likely be incorrect and will involve some sort of sinister intent on the part of the company. Honesty really is the best policy.