

Discipline, Documentation and Retaliation

Best Practices in Hiring and Firing Decisions

Termination Conference Checklist

Your termination conference with an employee should include the following:

1. Tell the employee in person about the termination decision whenever possible. The message should never be communicated by letter or telephone or email or memorandum.
2. Tell the employee the real reason for termination. There is no statute requiring such a statement, but fairness and a requirement that companies document the reasons should guide companies to be truthful in this regard.
3. Choose your words carefully to avoid claims of defamation (scripting your thoughts out in advance with the help of your legal counsel is a very good idea, especially where there is concern about the termination decision).
4. Explain the reason, but there is no need to be overly specific. If there are more reasons than one, then avoid designating only one reason when you may want or need to rely on several reasons at trial.
5. Answer the employee's questions. The company representative should invite and answer reasonable questions and spend a reasonable amount of time discussing the termination with the employee (the key work is "reasonable").
6. Be kind but do not apologize. You can empathize regarding the effect that termination will have on the employee. However, do not apologize about the decision. The employee must not have the impression that the decision to terminate is not supported by the manager or is reversible. Moreover, apologies may be interpreted in retrospect as evidence that the employee believed the termination was not justified.
7. Review what form of reference the company will provide regarding the employee. He should know what to expect if he invites others to contact the company, and you should pre-thing your response to callers.
8. Maintain a businesslike and considerate demeanor.
9. Allow the employee his/her privacy. Assure that the employee is given the opportunity to clean out his/her personal belongings and leave the premises in such a way that his privacy and dignity is not violated.

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