

# Reviewing Terminations Before You Act



## *9 steps to follow prior to following through on termination*

Terminating an employee is usually an unpleasant and difficult process. Even when you are justified in the termination and happy to be rid of the employee, the situation can be odious.

There are times when termination is your best and only option, and other times when things are unclear. A long-term employee having a bad run after a record of contributions, or a long-term employee with a history of poor performance or behavioral failures can come to the same end, but sometimes it is worth pausing and sorting out the facts. When you do decide to terminate your employee, it is important that you are certain about your decision.

Before you take action, examine the whole picture and carefully consider the following steps:

## **Steps for Termination Planning**

When you have been presented with a request or determined a need to terminate an employee, make sure to review the following steps:

1. **Review the employee's contract.** Understand if length of employment and performance measures have previously been spelled out. Options for termination may already be outlined in this contract.
2. **Review your own discipline and termination policies** and the **employment standards** for your jurisdiction. Ensure that your own processes have been followed and applied and there is no evidence of differential treatment for this employee. If your policy includes progressive discipline, ensure this has been followed and documented.
3. **Compare an employee's performance to their job description** and annual performance reviews.
4. **Note changes in performance** or in performance feedback.
5. **Determine if the employee had the opportunity to receive feedback** and offers of support and training. Terminating an employee with a 10 year track record of acceptable performance for a few months of less than stellar performance may be an over reaction.
6. If there is no evidence of performance concerns and no record of discipline review the decision to terminate more closely.

7. **Review entire employee work history record and file** before termination actions. There can be details about the employees past history that are important considerations as you move forward. These details are not only relevant for developing a severance package but understanding any potential points of contention that can include grounds for constructive dismissal, harassment and discrimination claims the employee may claim.
8. **Identify if this employee is a member of a protected class** of employees (based on gender, age, disability, family/marital status, race/origins, sexual orientation, religion). Consider if these factors have played a role in termination or could play a role going forward.
9. **Review the reasons for termination in relation to other employees.** Compare these reasons to other employees who have been terminated or who may have had similar performance deficiencies and not been terminated. It is imperative you determine if there is a pattern of consistent enforcement of discipline and termination. You may have to investigate this further. Document the consistent pattern of termination decisions in the event you have to defend your actions.
10. **Determine if disability or other protected human rights are playing a role in termination decision.** Things are not always as they appear. For example, if the employees performance concerns include consistent tardiness, consider if this employee has childcare issues. Consider accommodating this need. Take the time to consider the role of disability or family status in the problems you have encountered regarding this employee
11. **Review all employee related information.** The employee may request access to all information you have related to this person. Everything that pertains to that employee, including your email correspondence to and from other staff, even your notes on conversations about this employee, is part of the record. You cannot maintain secret files related to this employee. In the event of a dispute, or the employee requests records, you must produce all records. Review everything so you know where you stand.
12. **Ensure that employees are well informed of their options.** As part of the full termination process someone should have met with the employee at some point to discuss workplace expectations and resulting disciplinary procedures and options. If you do not have a record that demonstrates an employee has been made aware of policies, procedures, and any current areas of concern you may have to initiate this step before you can terminate.

Always review your termination process after each termination and look for opportunities to improve the process in the future.

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[The Top Ten Mistakes Employers Make When Terminating Employees](#)