
EMPLOYEE TERMINATION CHECKLIST

It is increasingly complex to discipline and terminate employees at all levels of an organization. The following checklist is a guide to help you observe appropriate procedures. It is not meant to be exhaustive, since no checklist can anticipate all factual patterns of human behavior. Nevertheless, it can enhance our ability to be "fair" with people, while concurrently reducing the risk of Company exposure to wrongful and unjust dismissal claims.

I. General Considerations For All Discharges

- ✓ Were any representations made to the person that he/she was not employed as an "at-will" employee? What were the representations?
- ✓ Did the person give up other employment opportunities by accepting his/her present position?
- ✓ Is there a written offer of employment, a letter confirming the terms of the employment or a contract of employment?
- ✓ Will the termination violate any "public policy"? For example, could the employee argue that the "real reason" for his/her termination was the exercising of political beliefs, exercising a statutory right or reporting the Company to a government agency? Is there an outstanding or unsettled workers' compensation claim subjecting the Company to a retaliation action?
- ✓ What is the employee's tenure? If the person is a long-term individual (i.e., ten or more years), does the employer "owe" him/her some special consideration?
- ✓ Will the termination of the employee prevent the vesting of benefits (e.g., pension, bonus) in the immediate, foreseeable future?
- ✓ What is the effect of the termination upon the morale of the department's specific location or the Company as a whole?
- ✓ What is the effect of the termination on patient, community relations, or on other business related matters?
- ✓ Did the employee's protected status (race, color, religion or religions, creed, sex, national origin, ancestry, non-job related handicap or disability, age) arguably have anything to do with the decision and/or will it appear that recent employment decisions are adversely affecting a protected class?
- ✓ Has a thorough investigation been conducted so that the decision is based upon facts and not perception, hearsay or speculation?

- ✓ Has the employer made an offer of reasonable accommodation, taking into account the person's religion or disability?
- ✓ Has the employee been given the opportunity to relate his/her side of the story?
- ✓ Are there extenuating circumstances or other mitigating factors which justify a lesser penalty?
- ✓ Is the decision timely?
- ✓ Should you suspend, pending further investigation?
- ✓ IS THIS ACTION CONSISTENT WITH PRIOR INCIDENTS OF A SIMILAR NATURE?
- ✓ If the answer to any of these questions makes the decision to terminate suspect, consult with The Personnel Department immediately.

I. Disciplinary Discharges

- ✓ Was the rule known to the employee? Was the rule published? Was the practice consistent with the rule?
- ✓ Have appropriate disciplinary steps been followed (i.e., oral, written, final written)?
- ✓ Did the employee have an opportunity to take constructive action?
- ✓ Are the witnesses credible?
- ✓ Was the information regarding the infraction obtained lawfully (e.g., polygraph, drug or alcohol test, private investigator surveillance, body search)?
- ✓ Is the documentation in order?
- ✓ Does the employee's overall documented record support the decision (e.g., employee just received congratulatory letter and merit raise for outstanding performance)?
- ✓ IS THIS ACTION CONSISTENT WITH PRIOR INCIDENTS OF A SIMILAR NATURE?

II. Performance Discharges

- ✓ Do the evaluations support the decision?
- ✓ Was the employee not only told of deficiencies but also advised how and when he/she needed to meet expectations?
- ✓ Did the employee ask for help to improve and was denied (e.g., refusal to provide training)?

- ✓ Is the articulated reason for the discharge the real reason?
- ✓ Is the deficiency capable of objective measurement, or are the criticisms specific (e.g., "bad attitude" vs. "employee refused to assist customer")?
- ✓ Does the employee's overall documented record support the decision (e.g., employee just received merit raise)?
- ✓ Was the employee ever told that his/her failure to improve would result in termination?
- ✓ IS THIS ACTION CONSISTENT WITH PRIOR INCIDENTS OF A SIMILAR NATURE?

III. Method of Termination

- ✓ Will the interview be conducted in private?
- ✓ Have you made sure that the supervisor is prepared to be calm and factual?
- ✓ Should a witness be present?
- ✓ Have you made every effort to make the termination as humane as possible?
- ✓ Has a checklist been prepared of what the employee needs to return to the Company?
- ✓ Has the Company prepared the final paycheck?
- ✓ Have appropriate steps been taken to insure confidentiality?