

# Be prepared to explain your reasonable rationale for firing protected-class worker

Hesitant to fire an employee because of his race, religion or other protected characteristic? Don't be. Employers with legitimate reasons to discharge someone generally win cases.

That's true even if the firing might *appear* discriminatory—such as when the sole fired employee happens to belong to a protected class.

**Recent case:** Charlie Heard, who is black, was terminated from his job as head wrestling coach at Waynesburg University. He sued for race discrimination.

The trial court agreed that Heard had shown he was fired under circumstances indicating race may have played a part—that is, he was the only black coach and the only one fired.

But the court then looked at the university's rationale. The university explained that it fired Heard because he got into an altercation with a student athlete and actually hit the wrestler. That trumped any apparent discrimination.

Heard appealed, but the 3rd Circuit Court of Appeals agreed with the university. (*Heard v. The Waynesburg University*, No. 10-4207, 3rd Cir., 2011)

**Final note:** If using misconduct as the discharge reason, make sure that other employees who committed similar offenses received the same punishment. In this case, no one else had hit a student athlete, so Heard could not argue that someone outside his protected class received treatment that was more favorable.

In short, when deciding on discipline, clearly identify and document the misconduct and double-check that similar misconduct in the past earned the same punishment.