

# Sample Policy: Terminations

The following sample policies were excerpted from [The Book of Company Policies](#), published by HR Specialist. Edit for your organization's purposes.

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## Sample Policy 1:

"There are two ways to terminate employment: voluntary and involuntary. Voluntary terminations include resignations, retirement, failure to return from leave, failure to report to work for three consecutive days without notifying the company, and completion of a contract. Involuntary terminations include layoffs and disciplinary action. Employees who want to leave in good standing will give their supervisor at least two weeks' notice."

## Sample Policy 2:

"Certain conduct is so repugnant to the policies of XYZ that it will lead to immediate discharge. Such conduct includes, but is not limited to:

- Reporting for work under the influence of alcohol or controlled substances.
- Possession, use, sale or distribution of controlled substances on XYZ property.
- Theft.
- Engaging in harassing conduct.
- Fabrication of business documents, including resumes and expense reports.
- Excessive absenteeism or tardiness.
- Fighting on XYZ premises.
- Abuse of equipment (including excessive personal use of office equipment).
- Insubordination.
- Gambling on XYZ premises.

"Note that these are only guidelines and, depending on the circumstances, even a first offense may be punishable by termination."

## Sample Policy 3:

"Your employment at XYZ is 'at will,' meaning that you or XYZ may terminate your employment at any time for any reason.

"The circumstances surrounding your termination, however, may affect your entitlement to payment for unused vacation time. Employees who resign voluntarily by providing at least two weeks' written notice of resignation may, at XYZ's discretion, be paid up to a maximum of four weeks of unused, accrued vacation.

“Employees who are involuntarily terminated may be paid for unused, accrued vacation, up to a maximum of four weeks at XYZ’s discretion. Under no circumstances will employees be paid for unused, accrued vacation if they are terminated for any of the following reasons: misuse or misappropriation of XYZ funds, theft of XYZ property or secrets, insubordination, fighting with other employees, unauthorized possession of firearms and/or other weapons while on XYZ’s premises or performing XYZ duties, reporting to work under the influence of intoxicants or illegal drugs, possession of illegal drugs either while on company time or premises, unexcused absences or immoral acts on the job. This list is not exclusive, and XYZ reserves the right to refuse payment for unused vacation time for any reason.”

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## **POLICY CONSIDERATIONS:**

When you have to terminate an employee for poor performance, it shouldn’t come as a surprise to either of you. Instead, you should have set policies that lay the groundwork for [progressive discipline](#), which gives the person an opportunity to improve. Then, if termination is still necessary, you should handle it with honesty, fairness, discretion—and full documentation. Otherwise, if you never informed the employee of your company’s policies or poorly communicated the standards, you might be forced to overturn his termination or pay a large settlement.

Thirty years ago, you could have fired an employee and thought no more of it. These days, it’s much harder to get rid of a problem employee. A lot of workers are suing for wrongful discharge or discrimination, and some are alleging that their firings violated an implied employment contract. The lesson in all this: You can still fire people, but you must play by the rules and follow an established discipline policy.

## **'AT-WILL' REVISITED**

Traditionally, people hired for an indefinite period were considered at-will employees. Unless they held an employment contract specifically stating otherwise, you could fire them for a good reason, a bad reason—or no reason at all. Over the years, though, courts have recognized exceptions to the at-will doctrine. Here are three big exceptions:

- Under federal law it is illegal to terminate workers because of their age, race, religion, sex, national origin or a disability that does not influence their job performance.
- You cannot legally terminate an employee for reasons that might violate public policy. For instance, you can’t fire an engineer for informing the EPA that your company has been dumping toxic waste in the river.
- If you tell your workers that they will be fired for cause only—or otherwise establish rules that spell out how and when terminations will be handled—you might be creating an implied employment contract.

Employment at-will has been so deeply eroded by exceptions that you’d be wise not to fire a worker without a good reason—one that you can articulate clearly and document convincingly.

Some employers state in their handbooks (and on job application forms) that employees are subject to termination without cause. Some ask their employees to acknowledge this clause by signing a form. There’s a trade-off here: Signing that type of statement won’t endear you to your workers. A policy of firing for “just cause only” is more likely to build loyalty, but it might subject you to judicial review.

## **POLICY GUIDELINES**

- **Document every time you warn an employee** that her performance will have to improve. Make

references to her job description and the standards set forth in her performance reviews. Do make it clear, however, that the tasks in the job description are subject to change depending on the organization's needs and that you may ask the employee to do various other jobs.

- **Use the progressive discipline approach.**
- **Watch what you promise.** Avoid any suggestion when hiring, for example, that so long as the person is productive, "the job is yours for life." Such comments are considered "implied contracts" by some courts, and they can severely restrict your right to fire.
- **Play by the rules.** Follow your discipline policy to the letter in every situation with every employee. If your employee handbook says you'll provide a verbal warning, a written reprimand and a probationary period, then make sure you do so.  
Of course, your handbook should also give you the right to fire someone immediately if he engages in serious misconduct. After all, you should not have to give an employee 30 days to prove that he will stop embezzling the company's funds.
- **Keep quiet.** Don't discuss your reasons for the termination with other employees. You could end up getting sued for defamation of character.
- **Don't force an employee to resign.** That's called constructive discharge, and courts take a dim view, to varying degrees, of personnel practices such as these: improper demotion, coercion into early retirement or failure to transfer, discriminatory pay, and harassment based on sex, age, race or disability.

*Observation:* An eye-opening study by Ohio State University found that workers who are fired or laid off without an explanation are 10 times more likely to sue than are those who are given concrete reasons for the termination.