

5 tips for legally safe terminations

Terminating employees is the hardest part of being a manager or HR professional. It's also the most legally dangerous. More lawsuits stem from firings than any other employee interactions. So what can you do?

While you can't expect an employee to leave a termination meeting happy, you can take a few simple steps to calm the person down and reduce the chances that he or she will leave the meeting and walk across the street to a lawyer's office.

Here are five smart tips for conducting those termination meetings from Pat DiDomenico, the editorial director of Business Management Daily and *The HR Specialist*:

1. Keep your cool. You want to avoid heightening an already emotional situation. Don't spring the firing suddenly or berate the employee in front of others.

Instead, you want to calmly and briefly deliver the news by summarizing the well-documented, job-related reasons for the termination. That way, employees may not like the result, but they will have little to dispute.

And don't get drawn into a back-and-forth with the employee. Explain that the decision is final and immediate.

2. Avoid surprises. Employees should never be completely surprised by a termination. If they've been given regular feedback and suggestions on ways to improve, the termination could almost be expected.

The problem is too many managers avoid those uncomfortable conversations and then just lower the boom all at once. Of course employees will suspect some kind of discrimination if they think they've been doing a great job all along.

It's up to managers to give employees regular feedback. And it's up to HR to make sure managers are doing that—and documenting it.

This advance work will help prevent lawsuits. Plus, if you are ever sued, the documentation can prove to a court that the firing was justified.

3. Watch what you say. On the day you fire someone, he or she will remember whatever you say in the worst possible light. Stick to the facts. Don't make any generalizing statements.

Avoid any harsh words that will inflame the situation. Never mention any legally protected characteristics as reasons for the firing. That includes age, gender, race, religion or disability.

Also, let the employee have his or her say, and even vent a little emotion, without being interrupted. Just reiterate that the decision isn't up for negotiation ... and then wish them well.

4. Don't be too kind. You may feel compassion for the person, but don't express your feelings in the wrong way.

If the employee's performance is substandard, say it. Don't offer compliments on other parts of his performance to soften the blow. Doing so might make *you* feel better, but it will only give the fired employee a reason to question your motives. Those off-handed compliments could turn up as evidence against you in a wrongful-termination suit.

So be compassionate, but stick to the facts.

5. Keep quiet and keep it private. Always discharge employees in closed-door meetings. Have another manager or HR person there as a witness. That way, it'll be much harder for employees to challenge what you said later on.

Don't discuss your reasons for the termination with other employees or outsiders. It's enough to say, "Kevin won't be working with us anymore." Send out an email with a similar one-sentence announcement.

Finally, after the meeting, sit down and write a memo about what was said by you and the employee. Have the witness sign it and keep it in the employee's file.

Hopefully, these tips will lead to stress-free and lawsuit-free termination meetings for years to come.