

10 Steps to Stress-Free, Lawsuit-Free Termination Meetings

Terminating an employee is probably the hardest thing an HR professional has to do. To handle terminations well, you need to keep calm, communicating your message without escalating the tension or doing something that could create legal liability. Here's how to retain control over a termination meeting:

1. Be prepared

Terminations trigger more lawsuits than anything else that happens at work. Review the facts ahead of time to make sure the termination decision was sound. Document legitimate business reasons supporting the action. Ensure the termination won't breach contractual obligations; and that people closest to the situation will confirm the underlying facts. Prepare a meeting script so that when emotions become raw, you can stay on message and cover all the issues that need to be addressed.

2. Determine the best time and place

Losing a job is stressful. Don't add to the employee's embarrassment by meeting where others might see or hear what's going on. Schedule the meeting at a private location where there will be no interruptions. If the employee becomes angry or argumentative, you may need to get up and leave once you've communicated the decision. For that reason, don't use your own office.

3. Have a witness

Another company official should be present. The employee has less opportunity to make false accusations about events that occurred during the termination meeting if another observer attends. The witness should be a managerial employee—one who is not emotionally invested in the termination.

4. Don't debate the decision

You don't need the employee's agreement that the termination is justified. Just communicate the decision; refuse to engage in any argument over its merits. If the termination is because of performance reasons or misconduct, the employee should already be aware of the reasons behind the decision. You gain nothing by trying to convince the employee that he or she deserves to be fired. Such a discussion will only ratchet up the tension.

5. Focus on transition issues

If the employee has company property, make arrangements now for its immediate return. If departing employees have noncompetes or other continuing obligations, inform them of your expectations. Make arrangements for removal of the employee's personal belongings. The focus should not be on an amicable separation between the parties.

6. Handle final pay

Under some state laws, when an employee is involuntarily terminated, the employer must pay all earned and unpaid wages within 24 hours after the employee's demand. To avoid any potential dispute over when a demand was made, most employers simply have the final paycheck available at the termination meeting.

7. Respond to inquiries, but don't rush

Some state laws permit terminated employees to request copies of their personnel records or even demand a written statement of the truthful reasons for termination. Know the law in your state and know how to respond. Review these types of requests with your legal counsel, and take the time that the law affords you to formulate your response.

8. Consider severance

Many employers offer severance benefits as a way to help terminated employees make a transition to other employment. When those benefits add up to a significant amount, they should be conditioned upon an agreement releasing the company of any and all legal claims. Employers must meet various legal requirements for such releases to be enforceable. Work with your legal counsel to make certain your release agreements are enforceable.

9. Document the discussion

After the meeting, you and the witness should document what happened. If you did a good job of preparing a script and sticking to it, you should be well on your way to completing your documentation even before the meeting begins.

10. Maintain confidentiality

Resist the urge to use this event as a lesson to other employees—or to put to rest rumors about why the employee left the company. With the exception of those who have a legitimate need to know more, employees and customers should simply be told that the person is no longer employed with the company.

Treating departing employees with dignity and respect will go a long way toward minimizing the inevitable tension that exists when communicating the termination decision. Making a plan and sticking to it are the keys. By doing this, you will avoid the traps that often cause termination meetings to be more stressful and combative than they need be.

Compassion, yes, but avoid being "Overly kind"

HR professionals and supervisors typically feel great compassion for employees whom they must fire. But they must avoid the instinct to express their feelings in the wrong way.

If a worker's performance is substandard, don't offer compliments on his job performance. Doing so may make you feel better, but it will only infuriate the worker because it will appear that he is being fired for no reason. And that can easily spark a wrongful-termination lawsuit. This is a common mistake for rookie managers who want to avoid being seen as the "bad guy."