

# New employee obviously not working out? Let hiring manager be the one who terminates

Sometimes, it becomes clear early on that it was a mistake to hire that new employee.

She showed great promise, her résumé was great, her experience was a perfect fit for the job and the interview went well. She showed up for work—and her performance isn't living up to the promise.

If it doesn't look as though things will improve, it may make sense to discharge the employee sooner rather than later. If it comes to that, it's a good idea to let the same manager who recommended hiring the employee also be the one to fire her.

That makes the termination decision much easier to defend if there's any question about possible discrimination based on obvious protected characteristics such as sex, age, race or national origin.

After all, why would someone who just decided to hire the applicant turn around and fire her for a discriminatory reason?

*Note:* Be sure to apply this practice across the board.

**Recent case:** Esther Coleman, who is black, was hired as the director of personnel services by a school district. Although the school board officially offered her the position, it did so on the strong recommendation of the man who would be her supervisor. He also is black.

Coleman immediately ran into trouble. First, her new boss told her that he expected her to work beyond the regular workday during the busy hiring season. Next, he sent her a series of e-mails complaining that she wasn't performing to his expectations.

That's when Coleman began complaining that she wasn't getting enough respect. Coleman also complained that the district, in her view, wasn't hiring enough black applicants.

Coleman's supervisor then recommended she be terminated, and the board approved that recommendation.

Coleman sued, alleging race discrimination. The court dismissed her claim, pointing out that the same person who recommended she be hired also recommended her dismissal. It said, "It hardly makes sense to hire workers from a group one dislikes ... only to fire them once they are on the job." (*Coleman v. Loudoun County School Board*, No. 08-1312, 4th Cir., 2008)

## Why hiring managers should be firing managers

Here's why you should consider letting the hiring manager do the firing, too:

- Jurors like common-sense arguments. It makes intrinsic sense to them that if someone chooses to hire an applicant, he or she doesn't harbor any secret prejudice, at least based on obvious characteristics such as race, age or sex. Why would the same manager turn around and, based on bias, fire someone he or she hired?
- The hiring manager also is in the best position to justify the decision based on direct observation. He or she knows what was expected from the applicant and can explain why the new employee didn't meet those expectations.