



## A Quick Primer on Employee Terminations

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Very few people truly enjoy terminating an employee. The goal for any employer is to limit potential liability while also trying to defuse hostility. Ideally, a termination decision will not be a complete surprise for the employee; absent an emergency situation (embezzlement, assault, etc.), the employee likely will have been counseled about deficiencies in performance and/or attitude, and warned that a failure to improve could lead to termination. Many employers will maintain extensive documentation surrounding the actions that led to a termination decision.

At a minimum, they will memorialize a termination decision in a detailed internal email between management and/or human resources personnel. Once the decision is made, a meeting is often scheduled between the employee, his supervisor, and at least one other person; the presence of two people is perceived to limit the employee's ability to claim that he was promised or told something that favors him over the company. And, after the termination meeting, the company participants may each write up a short summary of what was said.

Finally, the HR person in charge may direct IT personnel to cut off the employee's access to email, office phone, and company servers during the meeting or immediately afterwards for the protection of the company's critical business information.

Depending on the state, an employer may not be required to provide a written explanation for the termination. If written notification is required, it should be truthful but couched in terms that make clear that there may be multiple reasons for the termination, including but not limited to, the articulated reason(s). Upon termination, employers often are faced with deciding whether to allow the terminated employee to pack up his personal effects, under direct observation, or notify him that his belongings will be shipped to his home. When a company opts to mail his personal belongings, it will often include a detailed inventory of the package's contents, along with a request to notify the company if anything is missing.

After a termination, the company may be contacted by a potential new employer. It is often the practice

to identify a specific (single) person to handle any such requests, and to limit the response to job title, dates of employment and salary information. Additional issues may arise post-termination in connection with a non-compete and/or non-solicitation agreement. If such an agreement exists, many employers will remind the employee of his obligations and give him a copy of the agreement during a termination meeting.

Upon notice of the termination, an employee may claim that he has been subjected to harassment or discrimination by other employees or management. Depending on the statements or allegations made, the company may want to investigate those claims, even if they do not change the decision to terminate. Each of these issues are detailed enough to warrant their own blog posts, which will be forthcoming. In the meantime, we recommend that you contact an attorney to address all of these, and other, issues that can arise in connection with a termination.

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