

PREPARATION GUIDELINES FOR TERMINATIONS

Preparing for, and conducting, an employee termination is never an easy process for anybody, least of all the terminated employee who is a person with emotions and a life and responsibilities outside of work. There is also the rest of the organization and other stakeholders to consider in how a termination is handled. For the majority of terminations, typically “without cause”, careful and thoughtful advance planning is key. Exceptional and extremely egregious situations are less common and these may require rapid intervention which is not the focus of this document. In the event of the latter, you are advised to seek immediate counsel.

Note: these guidelines are general in nature to help you through the process. The specific legal obligations are set out by the employment legislation that applies to your organization: provincial, territorial, or federal, as the case may be. Part of the preparation is ensuring that you understand and adhere to the correct legislative requirements for the termination in question. If in doubt at any time, you are strongly encouraged to speak with an HR professional and/or employment lawyer. As the saying goes, “an ounce of prevention is worth a pound of cure” (Benjamin Franklin).

1. Review details of termination in advance with HR / an employment lawyer:

- ✓ Information about the employee to be terminated: basis of termination, tenure, job, performance, demographics, how recruited, “skeletons in the closet”, other
- ✓ If “not for cause” termination, payment and entitlement framework and Release (as applicable)
- ✓ If “for cause” termination, ensure it is substantiated
- ✓ Timing, timeframes, communications, references, resources as applicable
- ✓ Decide whether employee can collect personal items immediately after the termination meeting (and say “good bye” to colleagues”), and if “supervision” is required, or make other arrangements

2. Have all documents ready:

- ✓ Termination letter and, as applicable, Release
 - Prepare/have prepared according to answers to above questions
 - Have documents reviewed by employment lawyer
 - Proofread before signing to ensure accuracy and that you are aware of contents
- ✓ Exit checklist
- ✓ Announcement of employee departure ready for immediate distribution after the termination

3. Schedule meeting with employee with minimal delay (and without revealing agenda if asked):

- ✓ Either very early or very late in the day. Try to avoid Fridays, birthdays, day before vacation/long weekend, or any other “special” time.
- ✓ Ensure privacy in meeting and do not permit interruptions
- ✓ Strongly advisable to have another supervisor present as a neutral witness

4. During meeting with employee:

- ✓ Keep it brief and get to the point
 - Stick to the explanation in the letter – do not extrapolate, rationalize, justify, etc.
 - Take accountability for the meeting and decision. Focus on next steps. Do not enter into a debate about the decision.
 - Be professional and respectful when delivering the message
- ✓ Give the termination letter to the employee for closer review at home but do highlight main items now:
 - Last day of work:
 - If working notice is provided but it is not intended that the employee actually return to work, be clear on this point. Similarly, be clear if the employee is expected to work during the notice period.
 - Termination/severance pay and other payments (ex. vacation, sick days, etc)
 - Last day of benefits and conversion options, if available
 - Other services as applicable, ex. Career Transition, EAP, contact person for questions
 - If the letter includes a Release, the due date for the return of the signed Release:
 - Do NOT ask for a signature during this meeting
 - Discourage the employee from signing during this meeting
- ✓ Communicate next steps regarding personal belongings
- ✓ Ask the employee to return keys, passes, other handy company property now (refer to exit checklist).
 - outstanding items to be collected when employee returns – set a date now but before last day
- ✓ Offer to answer any questions now, or after the letter is read, or direct the person to HR/designated contact in the termination letter (as applicable)
- ✓ Offer to provide a cab ride home

5. Immediately after the termination meeting:

- ✓ Make a dated detailed written note of any unusual incident/conversation and advise HR/employment lawyer
- ✓ Ensure computer access is terminated for the employee – ideally while the meeting is taking place if possible – and cancel other accounts as applicable
- ✓ Communicate departure of employee to organization and stakeholders, as appropriate, in neutral manner without breaching privacy and confidentiality. Ideally, hold a staff meeting as soon as possible to personally communicate the departure.

6. Period following the termination until it is complete:

- ✓ Reply to terminated employee enquiries asap
- ✓ If the terminated employee retains legal counsel, it is strongly advised that your organization's employment counsel respond to the terminated employee's lawyer on your behalf
- ✓ Contact Payroll and provide a signed copy of termination letter, and, upon receipt, a signed copy of Release, if applicable
- ✓ Ensure all items are returned and document this.
- ✓ Follow up with employee as necessary, especially if due date(s) have been missed