Separation

Objective

Upon completion of this lesson, participants will be able to design termination procedures that will ensure a relatively smooth transition for both the employer and the employee.

Involuntary Termination

Firing someone is probably the hardest or at least the most dreaded part of being an effective manager. Perhaps one reason for this is because it reflects on the poor choice made during the hiring process.

Losing a job ranks as one of life’s most stressful situations. And, some people react very differently to stress - some get ill, others get angry, some get teary and, unfortunately, some get “even.” Your charge as a manager is to handle these situations properly, from start to finish, and to minimize your exposure to lengthy, costly litigation.

Remember that your other employees are watching, so how you handle these critical situations has a tremendous impact on the work environment. While every situation is unique, the following are some critical points to consider when confronted with an involuntary termination situation.

No Surprises

Hopefully you’ve been incredibly clear in your communications with the employee up to this point. When and how was the last time he or she was informed that work conduct or job performance had reached a job-threatening level? Understand, if this message was never written down, then it never really happened. Months from now, after the employee has filed an EEOC claim or lawsuit, you will have forgotten virtually everything you said and will have no documentation to prove your case.

Ensure that your employee conduct policies are communicated to every employee in your operation. Employment files must contain copies of all communication supporting job performance problems. You must be able to demonstrate that the problem employee was afforded reasonable coaching and time for improvement.
Careful Consistency

Has anyone else in your operation been treated differently for the same type of work deficiency? Does preferential treatment exist in your workplace? Make sure you get a second opinion from someone who can competently and objectively evaluate the facts, the documentation, and your decision-making process.

Don’t Procrastinate

The problem employee’s co-workers are probably picking up the slack and/or they’re having to listen, watch - and wait. They all have their opinions of what management needs and should do. So, each day you wait increases their perception of management’s ineffectiveness. The employee probably realizes the inevitable is coming as well. He or she has been disciplined, and even suspended as part of your operation’s four-step progressive discipline process. Waiting prolongs the inevitable, and in the meantime, everyone’s miserable, including the manager.

Timing

Make sure the day of termination is not a significant date for the employee, such as an anniversary or birthday. In addition, never fire on Fridays. When this occurs, the employee has the entire weekend to think about the situation which will fuel his or her animosity rather than redirecting that energy toward a job search. By the time Monday arrives, all the former employee wants to do is file suit. In contrast, if the employee is fired on Tuesday, he or she can immediately start job hunting with an outplacement firm.

Never let anger get mixed up with a decision to terminate employment. There should never be an occasion that requires you to dismiss somebody on the spot, even if the reason appears obvious. When you have reached the proverbial “end of your rope,” send the employee home. As long as there is rage involved with your actions, you’re setting yourself up for rebuttal. Take a night to cool off, make sure you have all the facts, and methodically evaluate your readiness to dismiss for cause.

Things to Consider

- Amount of severance contingencies, if any, including such items as accrued vacation pay, bonus participation and outplacement costs.
- Consider including equipment like laptop computers in the separation agreement. Usually these items have depreciated in value and can mean a lot to the employee in terms of goodwill.
- Non-compete agreement, if applicable. If the employee is over 40 years old, it is advisable to prepare a no-age discrimination waiver for the employee to sign. The Federal Age Discrimination in Employment Act (ADEA) covers age discrimination issues for people over the age of 40.
- Insurance coverage and rights under the COBRA medical insurance program.
- Secure an outplacement firm.
- Draw up an internal document for communication with the rest of the operation’s staff.
- What conference room to use, and whether security is needed.

If you choose to create a separation agreement, ensure that is fair and legally correct. If the package is a first for the operation or deviates from standard past practice, have the entire package reviewed by outside counsel. Finally, if the employee is governed by an employment contract, those provisions must be honored.

Make sure everything is prepared in advance, including a written termination notice. Two months severance pay can lessen the blow. Arrange for the employee’s locker or desk to be clean out for them - you don’t want to give the employee a reason to return. It saves everyone from embarrassment and it eliminates any potential scenes.

Delivering the Message

Generally it is the employee’s manager who must deliver the message, but if necessary, other staff could
be present. If the employee has a history or potential for violence, security should be close at hand. The room should be in neutral territory, such as a conference room, but not located in an open, visible place within the firm. It should also be free of sharp and easily thrown objects. These precautions are for extreme cases, but also a reminder that things of that nature do happen.

Some managers can say the right words with ease, while others struggle. Sometimes employees make it easy to confront them, sometimes not. Practice. Awkwardly stumbling over your confrontation and delivery will make you look as though you’re tentative about your decision, or unprofessional in your conduct.

Calmly, clearly and respectfully inform the person that you have decided to terminate his or her employment with your operation. Tell the person why, and thank them for their time with you. This is not a time for discussion or argument. You should have done all that in your earlier fact finding and coaching.

Assist with the collection of personal belongings and describe the procedure regarding the person’s final paycheck. Minimize your rebuttals to arguments, threats and other bouts of anger. Just let it go. Then be sure that the situation does not become an open topic of discussion among the other employees.

If a proper course of action is followed, this difficult process can be handled in a manner to minimize risks of time-consuming, expensive litigation.

Relief

There, you’ve done it. Relief sets in and perhaps a little guilt. While this is a natural feeling, termination is an important part of successful management. Channel your energies into improving the recruiting, selection and training processes at your company. Focus on the positive and both you and your employees will be a more productive organization.