Termination tips to ease the pain

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O ne of a manager’s most unpleasant tasks is terminating an employee. In fact, I once read that a manager’s risk of a heart attack increases immediately after a termination. I don’t know if this is true, but there’s no question that terminating someone isn’t fun. Since terminating employees cannot be avoided in the world of business, it pays to consider some important strategies for reducing both the stress and the risk.

STRATEGY #1: Evaluate new employees closely and address performance issues immediately. If a new employee is not working out, whenever possible, terminate prior to the conclusion of the introductory period. The longer you keep a person, the harder it becomes to make a change. So, if you have reservations during the first 90 days, they are likely to become greater down the road.

STRATEGY #2: Regardless of when a termination occurs (i.e., day 30 or year 30), you must be able to prove that the reason for termination was legal and nondiscriminatory. This applies to layoffs as well. Although you may operate under an “employment-at-will” philosophy (which means you have the right to terminate an employee at any time, for any reason, with or without notice), you still must establish that the reason was legitimate and business-related, not based on race, sex, religion, disability, age, or any other protected class. In the absence of proof, if your decision is challenged by a government agency, there can be an automatic assumption of discrimination.

STRATEGY #3: To reduce liability when terminating an employee for poor performance, you need to document all issues leading up to the termination. Yes … this refers to the dreaded verbal and written warnings! As you prepare your documentation, remind yourself over and over again, “the purpose of this session is to solve the problem and maintain the relationship.” All documentation should:

- **State the expectation.** If the expectation is outlined in a handbook or job description, refer to it. Remind the employee that he or she is personally responsible for meeting the expectation.
- **Document only the facts.** Include observable conduct and tangible results of the employee’s behavior. Note the date, time, and details of the event (who, what, where, and when).
- **Reference previous discussions, commitments, or written reminders/warnings.** If the employee made a previous commitment to improve and has not done so, discuss his or her failure to live up to the agreement. Cite all previous warnings and their dates on your documentation.
- **Determine ways you can assist the employee.** If possible and necessary, state how you will assist the employee in meeting the expectation. This could include additional training or reviewing for a period of time.
- **Leave future disciplinary action open-ended.** If you state that the next infraction WILL result in termination, be prepared to follow through. In most cases, it’s much better to leave yourself some wiggle room by stating: “If conduct and/or performance problems continue, or should other performance problems arise, you may be subject to further disciplinary action, up to and including termination.”
- **Sign the document.** Managers should always sign the memo or other documentation. The employee’s signature only confirms receipt of the memo—it does not effect change! If you really want the employee to improve, ensure that the employee agrees to improve before he or she signs the form.
- **Provide a copy of the written reminder to the employee.** If the documentation is properly prepared, there is no reason to withhold it from the employee. Keep the original, of course.

STRATEGY #4: Run your decision by someone who is knowledgeable about state and federal employment regulations and someone who has what I like to call “business wisdom.” Oftentimes, when we’re in the middle of a tough situation, we can’t see the forest for the trees. A trusted adviser can balance the risks with the rewards and provide insight and information that is fundamental to the termination strategy.

STRATEGY #5: If the issue is one of a “square peg in a round hole,” consider if there are other alternatives. Perhaps the individual would excel in another area of your organization. If the employee has valuable skills, fits the culture, possesses humility, and shows leadership potential, consider alternative opportunities. In order for this strategy to work, you must thoroughly understand the individual’s abilities, personality, interests, and motivations.

In any case, the goal of a termination is to part ways respectfully and without liability. In situations related to poor performance, if you’ve done a thorough job of coaching the employee, a termination shouldn’t come as a surprise.

Sound tough? It is. Perhaps that’s why the No. 1 problem with terminations is—quite simply—they don’t happen often enough.

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