

# EMPLOYEE TERMINATION

..... toolkit

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**Your employees are great - except when they are not.** When the actions of an employee start to impact your company culture or your bottom line, corrective action up to and including termination may be necessary.



Terminating employees is a task most leaders agree is uncomfortable. Even if an employee is leaving voluntarily, there are many emotions surrounding the change.

## **BEST BUSINESS PRACTICES**

A worry-free employee separation starts at the beginning of the relationship. The way your organization manages recruiting and onboarding sets the tone for expectations. Let's review some proactive best business practices that help limit your liability if and when the need for termination arises.

### **RECRUITING**

Your process should include a standardized employment application that requires applicants to fully disclose their prior work history without gaps in time. Candidates should also be required to disclose the reasons for termination of prior employment.

Applicants should be informed that false information on the application, or omissions of requested information will be deemed grounds for rejection or, if employed, grounds for termination of employment.

The application should authorize you as the employer to conduct appropriate background investigations and reference checks.

Your recruiting material and your applications should include your state's at-will status when applicable. See the section about employment at-will on the next page.



Check out our [Recruiting Toolkit](#) for additional resources and best practices.

### **INTERVIEWING**

During the interview process, clearly convey to the applicant what your expectations entail, including standards for attendance, performance, workplace conduct, and employee ethics. Making these standards clear during the hiring process should increase the new employee's understanding of workplace rules and reduce the risk the need for involuntary termination later.

## ONBOARDING

Set expectations by providing new hires with a copy of your organization's employee policy guide and any important employment policies and practices, including the organization's employment-at-will policy. Obtain the employee's written acknowledgement of having received and read the handbook and policies (an electronic signature works too).



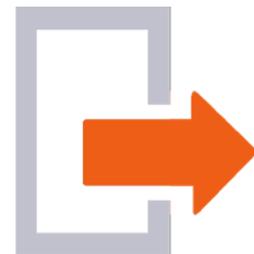
Create an employee file and [keep the signed document of the agreement along with employee's application, interview questions and any other documentation referenced](#) as part of the recruiting process.

If you need help with your onboarding practices, check out our [Onboarding Toolkit](#), full of tips, tricks, and resources to set you up for success.

## EMPLOYMENT AT-WILL

In the United States, the doctrine of "employment at-will" or "at-will employment" refers to an employment relationship between an employer and an employee, under which either party can terminate the relationship without notice, at any time and for any reason not prohibited by law. Many business leaders believe "employment at-will" provides security that allows them to fire someone for just about any reason. The truth isn't that simple—there are limits.

At-will means an employee may quit, or an employer may terminate at any time. However, all laws, both state and federal, do not allow the termination of employees for discriminatory reasons or for exercising their rights under the Family and Medical Leave Act, the Fair Labor Standards Act, or many other federal and state employment statutes.



Montana is the only state that does not allow an at-will employment relationship. A Montana-based employer is required to have just cause for terminating the employment relationship after an employee has completed his or her probationary period.

Stating that employment is at-will also does not mean an employer cannot be accused of wrongful termination. However, an employer can protect itself from wrongful termination claims and increase the likelihood of prevailing in potential court proceedings by following a progressive disciplinary process and maintaining relevant documents and records that support all actions related to employment decisions. The remainder of this toolkit assumes your employee relationships are at-will.

## EMPLOYEE SEPARATION STEPS

Having a plan in place to manage employee terminations will help reduce the anxiety associated with these conversations and help you avoid common termination pitfalls. The following section of the toolkit will provide the steps and resources to use when an:

- Employee voluntarily resigns
- Employer terminates an employee

### VOLUNTARY SEPARATION

Voluntary separation occurs when an employee chooses to end employment with his or her employer. If an employee quits or voluntarily resigns:

1. Ask the employee to complete the [Voluntary Resignation Form](#) and keep it in the employee's file. It is a good idea to use this form, even if the employee provides you with a resignation letter. This keeps your process consistent.

2. Schedule an exit interview with the employee. You may be able to gain some valuable insights from an employee who is leaving voluntarily. Only schedule an exit interview if you actually plan to take the feedback into consideration. Otherwise, it is not worth your time or the employee's time. You can use our [Exit Interview Questionnaire](#) or come up with your own questions.



3. Review the [Final Pay by State](#) document to understand when the employee must receive his or her final paycheck.

4. If you are a Helpside client, notify your Payroll Specialist as soon as possible that a final check needs to be processed to ensure compliance with final pay laws. You can do this by completing and sending in a [Separation Notice Form](#). Set the appropriate expectation for the employee, so he or she is aware of the timing of final pay.

5. If an employee gives you prior notice of his or her resignation, allow the employee to work up until the resignation date or release the employee and pay them through the resignation date to prevent paying future unemployment claims.

6. Communicate with other employees in a timely manner. Anytime an employee leaves, no matter the reason, there will be an impact on other employees. If you are going to hire a replacement, let employees know so they may express interest themselves or recommend others for the position.



## INVOLUNTARY SEPARATION

Involuntary separation occurs when an employer chooses to end employment with an employee for any reason. We encourage clients to keep the termination process as positive as possible. A positive termination may sound like an oxymoron, but if executed properly, you may make the process less painful and protect your company from retaliation and discrimination claims. If you are firing or terminating an employee:

1. Consider whether you have followed a progressive disciplinary process. This process helps you determine whether termination is the next best step in your current situation. The [Corrective Action Notification Form](#) is as helpful tool for manager and supervisors to use to document this process.

2. Consider any possible discrimination issues (age, gender, pregnancy, etc.) that might arise from terminating the employee. Employers should proceed carefully when terminating an employee who is on [FMLA leave](#) or workers' compensation. If you have followed and documented a progressive disciplinary process prior to termination, this is less of a concern. Reach out to an HR expert at Helpside to better understand the potential risks by calling (801) 443-1090 or emailing [humanresources@helpside.com](mailto:humanresources@helpside.com).



3. Complete the [Pre-termination Checklist](#) for your internal records and review the Separation Notice that will be sent to your Helpside Payroll Specialist to help you prepare for the termination meeting. Make sure to review the [Final Pay by State](#) document so you know what expectations to set for final pay.

4. Notify your Payroll Specialist at Helpside immediately that a final check needs to be processed to remain compliant with final pay laws. You may do this by sending the completed [Separation Notice](#) to your Payroll Specialist. Please note that this form is for internal use only and should not be given to the terminated employee.

5. Conduct the termination meeting. The direct leader of the employee and another member of the leadership team should be included in the conversation. In general, meetings should be between five and 15 minutes.



Many people think an end of day Friday termination is best, but that is simply not the case. [Research shows](#) terminations that occur mid-week often go more smoothly, as terminated employees are able to immediately begin searching for a new job rather than stewing all weekend about what just occurred. Additionally, a mid-week termination allows you to meet requirements for final pay and wrap up communications with internal employees and clients/customers before the end of the week.

For help preparing for a termination meeting, review the Involuntary Termination Meeting Guidelines on the next page.

## INVOLUNTARY TERMINATION MEETING GUIDELINES

### Who should be involved in the meeting?

Include key leadership in the meeting. At least two members of your leadership team should be in attendance:

- **Direct Leader:** This is the leader who has managed the employee's performance and delivered previous corrective action discussions. This person will be leading the meeting.
- **HR Leader or Executive Level Leader:** This person will serve as a witness.

### What should I say? (Direct Leader)

Deliver the news quickly and definitively. Any pleasantries could distract from the message and could create confusion that this is a performance conversation rather than a termination action. Focus on stating the facts, who, what, when and why.

- **Who:** *"Joe/Jane..."*
- **What:** *"You are being terminated"*
- **When:** *"Effective immediately"*
- **Why:** *"Your (attendance/performance/safety) is not meeting expectations."*  
Tell the employee the reason for the termination in clear terms. This is not the time to skirt around the issue to attempt to soften the blow. There is no need to go through a step-by-step analysis of the documentation supporting the reason for discharge. A short, clear statement of the reason for termination is sufficient.
- **Leadership Agreement Statement:** *"We have agreed as a leadership team on this matter. The decision is final."*

### Share Logistical Information (HR Leader or Executive Level Leader)

Review with the employee a written summary of benefits. This summary should include, where applicable, severance pay, pending bonus or commission payments, compensation for unused vacation and sick time (consult the [Vacation Pay Laws by State](#) document for more information), continuation of health and life insurance benefits, COBRA, and other benefits.

- *"Your final paycheck will be issued on DATE XX covering payment through today."*  
Refer to and follow the [Final Pay by State](#) guidelines.
- If applicable, *"You will receive information about COBRA directly from our benefits provider in the next few weeks."*
- Refer to your Employee Policy Guide and share company policies for Paid Time Off guidelines.  
*"Your vacation and paid time off will be paid out in your final paycheck."*  
*"Your vacation and paid time off will not be paid out in accordance with our company policy."*

- *"Your commissions/bonus will be paid out on DATE XX."*
- If terminating a leader and using a separation agreement, then:  
*"I also have a separation agreement for you. If you sign the separation agreement, the company will provide you with a severance payment of \$XX.XX AMOUNT. Before you sign, you may review the agreement. The separation agreement expires in XX days, so please let us know your decision as soon as possible."*
- Inform the employee how to collect his or her personal belongings.  
*"If you'd like to take your personal belongings home right now, I can help you collect them from your desk. Or if you would rather, we can set up a time to collect them after hours or send them to your home address."*
- If applicable, outline the steps to return company property including ID, keys, credit cards, laptop, phone, uniform, etc. (Review the [Pre-Termination Checklist](#))  
*"Please leave your laptop and keycard at your desk."*

#### **End the Meeting (Direct Leader)**

*"If you have any questions, you may contact me or our HR team directly."*

- Escort employee from the building, being careful to minimize disruptions to other employees.

#### **Important notes to keep in mind:**

- It can be easy to make excuses, apologize, or give advice to the employee because we feel uncomfortable. Remove as much emotion as possible and stick with the facts.
- Even if the termination is not a complete surprise (which it shouldn't be if you have followed a progressive disciplinary process), the employee will likely be in a state of shock. Walk them through the process with compassion. Think of how you would hope to be treated if you were in their shoes.
- You may be tempted to skip steps in the process, such as escorting the employee out of the office or staying with them while they pack up their personal belongings, but skipping steps is not recommended. It is in your best interest to remain with the employee from the termination meeting until they exit the building, no matter how much you feel you can trust the individual.

6. Communicate the termination to other employees. When you terminate an employee, other team members will feel the impact whether it's related to an increased workload or overall company culture. Communicate the change in a timely manner and include the following in your messaging:

- **Prepare the message**  
Take time to consider your message and determine the key points ahead of time. Message preparation will assist in providing a clear, relaxed, and confident communication.
- **Consider your delivery**  
Take a deep breath and collect your thoughts. Deliver your message in a quiet, calm tone of voice. Be deliberate in your word choices. This will go a long way toward mitigating any fears your team may have.
- **Communicate your message**  
*"Joe/Jane no longer works here."*
- **Reassure your team**  
Share with remaining team members that termination was fair and handled professionally. *"He/she was treated with dignity, fairness, and respect."*
- **Address the work impact**  
Share how the terminated employees' work will be distributed and communicate the details of longer-term plans. *"Our transition plan is that \_\_\_\_\_ will be taking on (list task assignments) until we find a replacement."*
- **Dispel rumors and answer questions**  
Be careful how much information is shared. It is important that your team members know they can come to you with questions or concerns although it might not be possible to answer every question. This step provides an opportunity to help ease employees' understandable fears and remind them that you are compassionate about and receptive to employee concerns. *"I understand that many of you have questions about \_\_\_\_\_. I can't share any personal information, just as I wouldn't share yours, but please help me understand what's bothering you. What is your concern?"*
- **Communicate team responsibility**  
Share your company gossip policies. Remind the team of their responsibilities to prevent defamation of the terminated employee. Emphasize that their discretion is critical in maintaining the company brand and reputation. *"Please use discretion with this information. We have a gossip policy in place to prevent defamation of our employees as well as to protect our company's reputation."*
- **Re-engage your employees**  
How you end this communication is important. Share with the team that the company values its employees. *"Our team members are what drives our business. Sometimes team members are not a good fit and we have a [process in place for coaching](#). When this doesn't work, it is our goal to help team members exit gracefully. "*



## CONCLUSION

The business risks surrounding your termination practices include both state and federal consequences. Additionally, the discharged employee may choose to take legal action against the employer, the managers involved in the decision and possibly the discharged employee's co-workers. As if that's not enough, the way a company terminates employees also has the potential to affect recruiting, retention and morale.

“Getting fired is nature’s way of telling you that you had the wrong job in the first place”

-Hal Lancaster



Terminations are a part of business and a necessary task to keep your company moving in the right direction. However, how you manage terminations is where business leaders have the greatest impact. Often, helping an employee move on to another position not only helps your organization. it helps the employee move on to a position and company that are a better fit for them.

If you have further questions, please feel free to reach out to our People Strategy Team at 1-800-748-5102 or [humanresources@helpside.com](mailto:humanresources@helpside.com).

The PDF versions of the sample documents in this toolkit can be found at:

[www.helpside.com/termination-toolkit](http://www.helpside.com/termination-toolkit)