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**AVOIDING TERMINATION LAW SUITS**

1. Consider each and every termination as a potential lawsuit.
2. Train supervisors and managers as to when and how to terminate.
3. Follow the personnel policy manual and/or contract to the letter.

**Investigation:**

You must investigate the situation prior to making your decision to terminate. Do not rely on other's interpretations or opinions - investigate the matter yourself.

Document **all** inadequate performances at the time of the occurrence.

Document **all** policy violations at the time of the violation.

**Performance Appraisal:**

Consistent and accurate appraisals will help make and defend the decision to terminate.

A poorly done appraisal may hurt more than no appraisal at all.

Train supervisors to avoid excessive leniency and bias in their appraisals.

Explain the importance of accurate appraisals to supervisors and managers.

Appraisals should be reviewed by a superior before presentation to an employee.

**Progressive Discipline:**

Communicate your discipline policies to employees.

Apply the policies uniformly.

In final written stage, advise that termination will occur, within a specified time, if problem remains uncorrected.

Document every stage of discipline and have the employee sign the documentation. Keep all documentation in the employee's personnel file.

Advise employees of actions which will result in immediate termination.

**Documentation:**

Documentation is an essential requirement of the entire employment process.

Good documentation preceding termination may discourage an employee (or his/her lawyer) from ever filing a lawsuit.

Documentation needs to be accurate and objective.

Documents should include the following:

- Date
- Signature of supervisor or person who prepared the action
- Narrative of problems or violations
- Correction action to be taken by employee, time frame for correction to occur, end result if situation is not corrected
- A statement indicating document will be retained in employee's personnel file
- Employee's signature or statement of refusal to sign
- Employee's statement (provided only when employee requests to do so)

### **Termination:**

Be prepared - follow all policies and/or contracts.

Review all documentation - be sure it supports your decision.

Document the specific event that led to termination - cite specific examples.

When your decision and/or documentation is questionable, consult an attorney.

Ask yourself:

- Is the employee, a woman, a racial minority, over 40 years old, disabled, a union advocate, pregnant
- Has the employee, recently filed a worker's compensation claim, recently taken Family and Medical Leave, or complained about unsafe conditions
- How many minority employees remain?
- Who will replace the employee?
- Is the reason for termination something that has been used to terminate employees in the past?
- What has been the immediate supervisor's history in terms of problems with subordinates?

### **The Termination Meeting:**

Have formal and private meeting with the employee. If possible, have a witness for the employer present.

Take notes - or have the witness take notes.

Avoid causing undue anger or frustration for the employee.

Don't discuss the reasons which led to termination, unless asked.

Give the employee opportunity to talk and ask questions.

Provide specific examples to the employee only when asked for them.

Don't get involved in lengthy discussion or waiver on your decision.

Advise the employee the decision is final.

### **Exit Interview for Voluntary Termination:**

Exit Interviews can be used to diffuse potential hostility, misconceptions and law suits.

Discuss the employee's reason for resigning - this can be very useful for an unemployment compensation case. Put the reason on the Exit Interview form.

Ask the employee for information about complaints regarding their employment with you.

Have the employee sign the Exit Interview form.

