



## Mini-Guide: Termination Best Practices and Checklists

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This guide addresses best practices for terminations and includes checklists to help you manage termination meetings and recordkeeping.

This guide addresses key considerations related to the termination process. Most apply broadly and should help you cover your HR and compliance bases. However, certain situations and employment relationships (like those subject to a collective bargaining agreement) may need additional consideration.

## Termination Meeting Best Practices

- Hold the meeting in a private location and at a time of day that will allow the employee to make a graceful exit. If the employee is not remote, the meeting should generally be held in person.
- Prepare a script or outline for the meeting and stick to it.
- Don't rely on "at-will employment" as the explanation for the termination. When discussing the reasons for the employee's termination, be honest—don't exaggerate or minimize the problems. You want the employee to know that you have a valid business reason for their termination.
- Present any disciplinary documents, including last chance agreements or performance improvement plans, that are relevant to the termination reason.
- Address compensation and benefits details, including the employee's final pay (date and method), insurance end dates (including any continuation and conversion options), and retirement plan information.
- Make sure the employee receives a copy of any required state notices, such as information about unemployment insurance.
- Review any post-employment contractual obligations, such as the terms of noncompete or nondisclosure agreements.
- Review the process for return of company property, including the date by which all items should be returned.
- Let the employee know how future reference checks for employment will be handled, including who those requests should be directed to.
- Allow reasonable time for the employee to ask questions and identify who they should contact if they have additional questions after the meeting.



## Pre-Termination Checklist

### Compliance

- Ensure that there is a legitimate business reason for the termination and that employees in similar circumstances have been treated the same.
- Verify that the employee is not being terminated for activity that is protected by the **National Labor Relations Act**, such as discussing the terms and conditions of their employment, including their pay or their coworkers' pay, or engaging in labor organizing activities.
- If laying off multiple people, understand any duties under the WARN Act and any state mini-WARN laws.
- If your organization offers group health insurance, comply with federal COBRA or state mini-COBRA requirements.
- Determine if there are any state notices you're required to provide at termination.
- Check state law for payout requirements for PTO, vacation, or other accrued paid leave.
- Ensure that the employee's last paycheck complies with final pay deadlines and requirements and doesn't include any prohibited deductions.
- If the employee is generally entitled to commissions, check your commission agreement and state law to ensure those payments are made, if required, in a timely fashion.

### Legal

If your organization uses nondisclosure, noncompete, severance, or other contractual agreements, these should be drafted or reviewed by an attorney who practices employment law in your state. Without attorney review, you may end up with agreements that are unenforceable or expose the company to liability.

- If there are any contractual obligations that will continue post-employment, review their key components so that you can address them with the employee. Provide the employee with a copy at the meeting.
- If using a severance agreement, provide the departing employee with appropriate instructions regarding any consideration period and signing deadline.

### Administrative

- Plan the meeting. Decide when and where it will take place, how you'll inform the employee about it, and who should attend. Often it makes sense to have both the employee's manager and a representative from HR in attendance.
- Have a script or outline of the points you want to cover at the termination meeting and be prepared to address employee questions.
- Determine if anyone else needs to be aware of the termination ahead of time, such as IT or building security.
- If you plan to conduct an exit interview, determine when and where it will take place and who should attend.
- Check whether the employee has any company property that should be returned.
- Prepare any applicable company-specific separation forms or letters (e.g., acknowledgment of receipt of final pay, acknowledgment of return of company property, or a termination letter).
- Gather any last chance agreements, write-ups, or performance improvement plans that are relevant to the reasons for termination.





## Post-Termination Checklist

Some of these processes may be automated by your HRIS or payroll system or may not apply to every employee.

- Ensure that termination meeting notes are completed and stored.
- Contact IT to close all employee accounts, change passwords, disable badges or other means of access, and forward phone calls and emails.
- Cancel any company credit cards in the employee's name.
- Contact insurance carriers to inform them about benefits termination.
- Contact your COBRA administrator.
- Update your HRIS and payroll systems.
- Update any organization charts and employee lists.
- Notify current employees about the termination as appropriate.