



## Discipline and Termination

Terminating an employee, whether for misconduct or a layoff, is never a pleasant task. However, at times it is a necessary part of managing a workforce. Voluntary termination by an employee through resignation or retirement may not carry the same negative message of an involuntary termination (company termination), but it does trigger certain responsibilities for the employer.

### **Involuntary Termination**

Each step in the process of terminating an employee should be carefully executed. Each step must be carefully and thoroughly documented. If an employee is discharged for poor performance and later sues alleging discrimination, the employer will have a difficult time defending if the employer has not done a proper job of documenting poor performance, attendance or behavior over a reasonable period of time.

Note: Terminating an employee is a very sensitive matter, requiring careful communication and documentation to avoid potential lawsuits or other future problems. It is recommended that the employer consult Human Resources or an attorney before taking any specific steps should the need to terminate an employee arise.

Although “at will” employment is common to virtually all states, employees do have substantial statutory protection as well as remedies found in judicially recognized exceptions to the \*at-will employment rule.

\*At will employment is the ability of the employer to terminate employment for any reason with or without notice. The employee has the same right.

### **Statutory Protections**

Federal law prohibits any adverse employment action based on race, color, sex (including pregnancy), age, national origin, disability, military service or genetic information.

Federal law further prohibits adverse employment action because an employee:  
Participates in an investigation or proceeding related to a claim of discrimination, or opposes discriminatory conduct.

Reports violations of wage and hour laws, such as minimum wage and overtime.

Reports workplace safety violations under the Occupational Safety and Health Act.

Employees of employers with more than 50 employees have the right to leaves of absence under the Family and Medical Leave Act.

Before moving to termination, employers should consider the following best practice discipline steps. For more information about discipline and terminations, please contact Sharon Ely, Human Resources Director, [sely@infinite-ws.com](mailto:sely@infinite-ws.com), 512-271-9700, ext. 209.



## EMPLOYEE DISCIPLINE STEPS

