

Khosla Ventures

Guide for Effectively Managing Terminations

Sometimes it doesn't work out.....

- There are various reasons why you may find yourself in a situation where you have decided to terminate an employee's employment
 - Employee performance is not meeting your expectations
 - The job may no longer be necessary to your business
 - The employee has violated an important policy or standard of conduct
- Each situation may require a different process but all should be addressed with dignity and respect for the employee

Termination for Non-Performance:

- California recognizes the "at will" status of employment. If you establish your company as an "at will" employer (by stating such in your offer letters and your employee handbook) it means that the company or the employee may terminate the employee's employment at any time, for any or no reason, with or without notice.
- "At will" is not, however, an excuse for poor management. It is still your responsibility to set expectations, ensure the employee has what they need to perform, provide feedback and help the employee succeed
- How you deal with non-performance should be driven by your philosophy and values. My belief is that a "no surprises" philosophy is the best. That means that when you start to see the signs of non-performance you address it directly with the employee. Tell the employee where they are not meeting expectations and when possible, work with them to correct the performance. Remember that other employees will be watching how you deal (or don't deal) with non-performance.
 - *See Attachment 1: Managing the Difficult Conversation*
- If the performance is not improving to the required level then the employee should be explicitly told their job is in jeopardy.
- Whether you do formal verbal and written warnings is a matter of philosophy and company policy - it is not required by law.
- What is required by law is that you do not discriminate or base your decision for termination on anything other than job performance or company need

RIF:

- "Reduction in Force" is when you decide, for business reasons; you no longer need a particular position or set of positions. This can be driven by costs, shift in business direction or other business changes. For companies over 50 employees, certain state and federal rules may also apply. Consult HR or legal counsel for more detailed information specific to your organization and situation
- RIF's should not be used to deal with performance issues (however, performance can be a criteria for determining which employees will be terminated)

Termination for Cause:

- “Termination for Cause” is termination for serious misconduct or violations of company policy or law
- Counseling or corrective action periods are not appropriate for this type of termination. Termination is immediate (can be following investigation)
- Examples of Termination for Cause: theft, violence in the workplace, breach of confidentiality agreement, falsifying records, insubordination

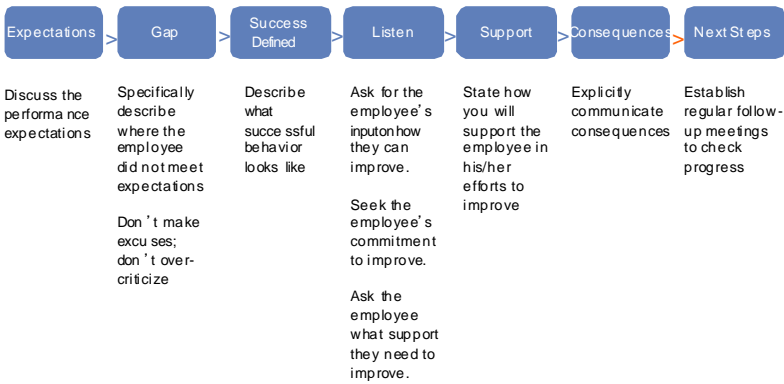
Documentation

- Documentation of performance discussions with the employee is important to ensure communication is accurate and understood
- Informal discussions should be documented and kept as a record for potential future actions. (Noted on calendar, in informal word doc, journal, etc.)
- It’s important to write things down in case at a future date some disagreement occurs – you may think you’ll remember but having the detail is very important.
- It is important that formal discussions or notices such as written performance improvement plans, notices of separation and/or termination be retained in the employee’s formal HR file.

Tips:

- Setting expectations and providing feedback is your job
- Deal with performance issues as soon as you see them
 - Be honest – ask yourself, can the employee turn the situation around and what will they need to do so. If they can’t turn the situation around (unwilling, too much time required, etc) then look for another option (another role, negotiated separation, redefine the role, etc.)
- Termination for unsatisfactory performance should never be a surprise to the employee
- Always treat the employee with dignity and respect

MANAGING THE DIFFICULT CONVERSATION



Attachment 1:

Attachment 2:

Feedback Worksheet

Employee Name:

Date of Conversation:

1. Describe the performance behavior on which you are giving feedback.
2. What's the impact of the poor performance?
3. Describe what successful performance would look like
4. What's the gap between current performance and successful performance?
5. Is the employee able and willing to make the desired changes?
6. What support will you give the employee to improve?
7. What are the consequences if the performance doesn't improve?
8. Next steps:

Attachment 3:

Performance Improvement Action Plan Worksheet

Employee Name:

Date:

What is the gap in performance (be specific)?

What does successful performance look like?

How will you measure successful performance?

What is the timeframe by which the performance must be corrected? What are the check-in points to determine if performance is improving?

What happens if the performance is not brought to an acceptable level? (Consequences)

What happens if the performance is brought to an acceptable level? (No backsliding)

What does the employee need from you to accomplish successful performance?