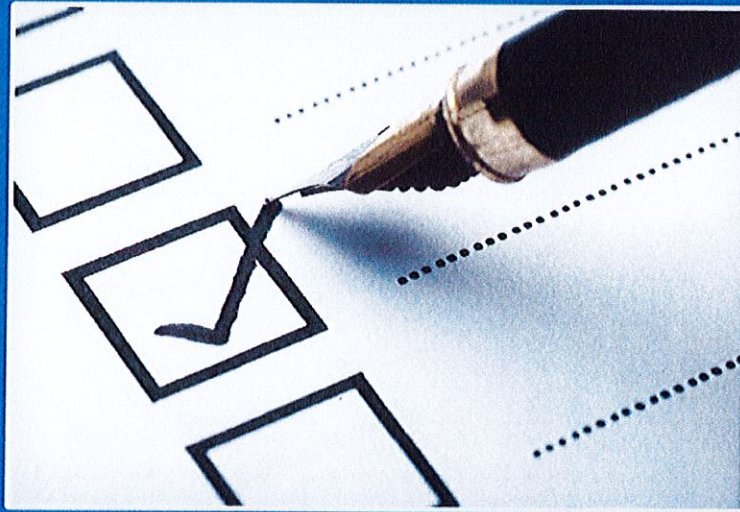


INDISPENSABLE TERMINATION CHECKLIST



2019

© Stearns Weaver Miller 2019

Lisa K. Berg
Stearns Weaver Miller
150 West Flagler Street
Suite 2200
305-789-3543 | lberg@stearnsweaver.com

Board Certified by The Florida Bar in Labor and Employment Law

INDISPENSABLE TERMINATION CHECKLIST©

As an employment lawyer, the most frequent question I receive is - "Can I terminate this employee?" Consequently, I created this "Indispensable Termination Checklist©" to help employers gather the necessary documents and information to conduct a proper analysis and risk assessment before terminating an employee. Asking these questions will enable an employer to implement the termination process in a safe, compliant, respectful, and efficient matter.



This checklist is designed to provide general information for educational purposes only and focuses on employees of non-unionized, private sector employers in Florida. It does not constitute legal advice and is not intended to create an attorney-client relationship between you and Stearns Weaver Miller. Not all of the items listed may be useful or appropriate in any particular case. The intent is to make you aware of the many issues that might be relevant when terminating an employee and, thus, to assist you in working with an attorney. It is not intended to be a list of required steps that must be taken when terminating an employee. Warning: using this checklist in a particular case without consulting with legal counsel might result in the checklist and any comments or marks you make on it being discoverable in litigation.

INDISPENSABLE TERMINATION CHECKLIST©

I. Gather and Assess All Relevant Documents, Policies, and Information

Employee's Personnel File

- offer letter
- employment agreements (if any)
- restrictive covenant agreements (if any), such as:
 - confidentiality or non-disclosure agreements
 - non-solicitation agreements; and
 - non-competition agreements
- performance reviews (if any)
- job description or list of employee's essential job functions
- disciplinary/counseling/coaching records
- timesheets (for non-exempt employees)
- attendance records
- employee's request for leave, FMLA paperwork, fitness-for-duty evaluation, medical certification, and employer response
- employee's request for a reasonable accommodation; documents reflecting interactive process
- internal complaints raised by employee and related investigation files

Employee Handbook, Policies and Procedures Manual, and any other relevant policies not in the handbook/manual

Signed employee handbook/policy acknowledgment(s) of relevant policies and/or electronic signature pages acknowledging handbook/policies

Code of Ethics/Conduct

Severance Plans

Compensation Plans, Incentive Compensation Plans, and Bonus Plans

Stock Option Plans; Equity Compensation

Deferred Compensation Plans

Retirement Plans; Health and Welfare Plans; other employee benefit plans

Immigration-Related Documents (including work authorizations, applications, or petitions)

Decision Maker's Personnel File (including any confidential investigations that might be relevant to the particular employee termination)

Any other documents supporting the termination decision (e.g., if employee is terminated for violating a drug-free workplace policy, collect the relevant policy, drug test results, consent forms, witness statements, and other relevant evidence)

Confidential Investigation File (e.g., investigation of allegations regarding harassment, discrimination, theft, fraud, workplace violence, etc.)

Third Party Reports (e.g., private investigators, shoppers, auditors, etc.)

Surveillance Video; lawfully recorded conversations on business extension; GPS data

Other documents, if relevant to the termination (e.g., business expense receipts, customer complaints, etc.)

Relevant electronic records, including e-mails, text messages, instant messages (Caution: IT Department should properly preserve employee's electronic profile, browsing and search history, inbox/outbox, etc., without altering metadata)

Download public or lawfully obtained social media records (e.g., if employee posted confidential company information on social media site, download copy of posting)

INDISPENSABLE TERMINATION CHECKLIST©

II. Issues to Consider Prior to Termination

1.	Did I analyze the employee's protected class(es), if any, and determined if this raises some litigation risks? [See question 16 below]
2.	Does the employee have long tenure with the Company?
3.	Have I thoroughly investigated the incident that triggered the discharge?
4.	Have I gathered all the relevant facts to support the termination decision (e.g., dates, times, places, witnesses, supporting documentation)?
5.	Have I given the accused an opportunity to present his/her side of the story and followed up on any leads or conflicts that arise?
6.	Do I have written documentation (e.g., disciplinary memoranda, performance appraisals, timesheets, work product, prior warnings, witness statements, etc.) to support my decision? -If not, have I asked the employee's supervisor to document the recommendation for termination in a confidential/privileged document addressed to HR and legal?
7.	Is the documentation that supports the termination decision problematic, unprofessional or lacking in objectivity? -If yes, does it contain personal comments, overstatements, speculation or assumptions, emotionally charged language, incorrect information, or sugar-coated performance appraisals?
8.	Did the employee violate a <i>published</i> rule or standard (i.e., did the employee sign an acknowledgment that he/she received a copy of the employee handbook or written copy of rule that was allegedly violated)?
9.	Does the discipline match the infraction? Am I being fair and objective? (<i>Although the law does not require fairness, am I comfortable that the decision can be defended if challenged?</i>)
10.	Have I complied with the Company's corrective action policy?
11.	Does the Company have a policy of progressive discipline? -If yes, have I followed it?
12.	Are prior compensation increases (if any) inconsistent with the basis for termination?
13.	If performance is the issue triggering termination, does the employee's personnel file contain adequate prior counseling, coaching or corrective action?
14.	Are prior written performance reviews (if any) consistent with the basis for termination?
15.	Has Human Resources (if such department exists) verified information provided by the decision maker to support the termination decision?
16.	Did I conduct a disparate treatment analysis prior to termination?
a.	Have I consistently and fairly applied the Company's policies and procedures?
b.	Is there a legitimate, non-discriminatory business justification for the termination decision?
c.	Have any "similarly situated employees" outside the employee's protected class [comparators] engaged in the same conduct and been terminated (e.g., have other employees been discharged for violating the same policy)?
d.	If the comparators were treated more favorably, does any documentation exist to support the difference in treatment?
e.	If the employee had previously been evaluated in a performance appraisal, is the termination decision consistent with prior reviews or inconsistent? If inconsistent, can I justify terminating the employee in light of the previous review?
f.	Is additional counseling or one final warning warranted before termination?
g.	Would a failure to terminate raise questions of consistency of application of our policy?

INDISPENSABLE TERMINATION CHECKLIST©

II. Issues to Consider Prior to Termination	
h.	Have I independently reviewed the personnel files of the comparators to ensure that the Company could defend a disparate treatment claim?
i.	Have I reviewed documentation to ensure that statements made by the decision maker(s) are true and free from any form of discriminatory bias?
j.	Do I have any concerns about statements made in written memoranda that although not illegal, could be damaging in litigation?
k.	Conversely, are there any statements in writing that conflict with the Company's non-discrimination policy?
l.	Has the person making the termination decision been accused of discrimination in the past? -If yes, by the employee to be terminated? -Other employee(s)?
m.	Is there any relationship between the decision maker(s) and the employee that may affect whether an objective decision can be made?
n.	Is progressive discipline warranted under the Company's policies and have I consistently followed that process under similar circumstances?
o.	Is the violation so serious that it requires immediate discharge?
p.	Have I reviewed the employee's protected status under the various labor and employment laws (e.g., Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act, Age Discrimination in Employment Act, Florida Civil Rights Act, Genetic Information Nondiscrimination Act, National Labor Relations Act, Employee Polygraph Protection Act, Immigration Reform and Control Act, Florida's Workers' Compensation Retaliation statute, Family and Medical Leave Act, Uniformed Services Employment and Reemployment Rights Act, Section 1981 of the Civil Rights Act of 1866, Occupational Safety and Health Act, and Fair Labor Standards Act)?
q.	Has the Company followed its internal process/procedure for review and approval of the termination decision (e.g., does a particular person need to approve the decision, such as the Vice President of Human Resources, in-house counsel, or someone else)?
17.	Have I reviewed other Florida laws to ensure that this termination decision is lawful under state law (e.g., Guns at Work law, Domestic & Sexual Violence Leave, Breastfeeding, Direct Deposit of wages, etc.)?
18.	Has the employee disclosed a disability or medical condition? -Was the decision maker aware of this information? -If yes, was that information a factor in the decision to terminate? -Have I maintained that information confidential to the extent required by law?
19.	Has the employee requested an accommodation under the ADA? -Does the employee have a disability covered by the ADA? -Is the employee qualified for the job? -Did the Company offer a reasonable accommodation to the employee? -If not, do I have a defense (e.g., not qualified, undue hardship, lack of employee's cooperation in the interactive process, etc.)? -Have I exhausted the interactive process? -Did I document the interactive process?
20.	Has the employee requested an accommodation due to religion? -If yes, am I terminating the employee because the Company could not make the accommodation?

INDISPENSABLE TERMINATION CHECKLIST©

II. Issues to Consider Prior to Termination

21. Am I terminating the employee for filing personal bankruptcy (Prohibited by the Federal Bankruptcy Act)?
22. If I am terminating the employee for absences, are any of those absences covered by the FMLA?
23. Is the person being terminated on an authorized leave?
 - If yes, did I properly administer the leave?
 - Would the employee have been terminated if he/she were not on an authorized leave?
 - If the employee is on FMLA leave, did I provide the employee all of the required notices?
 - Is the employee's leave status a factor in the termination decision?
24. Have I reviewed the timing of the leave and return to work, to ensure that there is no retaliation for taking authorized leave?
 - Is the termination decision close in time to the return from leave?
 - Can I prove the decision was based on a legitimate, non-discriminatory reason and not in retaliation for taking leave?
25. Have I reviewed the facts to determine whether the employee was on any other type of authorized leave:
 - a. Medical leave?
 - b. Non-FMLA family/medical leave?
 - c. Jury duty?
 - d. Military leave?
 - e. Any other authorized leave (e.g., domestic or sexual violence, personal leave, vacation, sick leave, etc.)?
 - f. Is the employee on an authorized leave and receiving workers' compensation benefits?
[Consult with workers' compensation counsel prior to termination decision.]
26. Was this employee engaged in union organizational activity or "protected concerted activity" under the National Labor Relations Act (e.g., complaining in concert with other employees, or as the spokesperson for other employees, regarding wages, hours, and working conditions)?
27. Have I reviewed applicable employment agreements, change-in-control/separation agreements, non-compete agreements, offer letters, etc.?
 - Any concerns regarding breach of contract (e.g., does the employment agreement permit termination only for "Cause")?
 - Does the termination trigger severance obligations pursuant to a policy, plan, or contract?
 - Any concerns that the offer letter could be construed as an employment agreement?
 - Any notice requirement in an offer letter or employment agreement requiring minimum notice before termination?
 - Any concerns involving a relocation agreement? Repayment of monies?
28. Has the decision maker made any public statements about the employee that could be grounds for a defamation claim?
 - Any other possible tort claim (e.g., intentional infliction of emotional distress, fraud, detrimental reliance, invasion of privacy, etc.)?
 - Is the decision maker someone who often makes inappropriate remarks in the workplace? (How will this affect the Company's ability to defend any challenge to the termination?)
29. Has any Company official made any public statements about the employee that could be grounds for a defamation claim?
 - Any other possible tort claim (e.g., intentional infliction of emotional distress, fraud, detrimental reliance, invasion of privacy, etc.)?

INDISPENSABLE TERMINATION CHECKLIST©

II. Issues to Consider Prior to Termination	
30.	Has the employee exercised any rights under the Employee Retirement Income Security Act regarding employee benefits?
31.	Has the employee complained or threatened to complain to any governmental agency, under oath, in writing, regarding any activity, policy, or practice of the Company that is in violation of a law, rule or regulation?
32.	Has the employee provided information to, or testified before, any governmental agency conducting an investigation, hearing, or inquiry into an alleged violation of a law, rule, or regulation?
33.	Has the employee objected to or refused to participate in any activity, policy or practice of the Company, which is in violation of a law, rule, or regulation?
34.	Did the employee recently file a workers' compensation claim?
35.	Is this a high-risk termination involving a long-term or gravely ill employee, or some other factor that makes the employee a sympathetic witness?
36.	<p>Has the employee been properly classified under the Fair Labor Standards Act as exempt or nonexempt?</p> <ul style="list-style-type: none"> -If nonexempt, did the Company pay the employee for all overtime worked? -Did the Company properly maintain timesheets? -Did the employee complain about not being paid overtime? -Did the employee file a complaint with the Department of Labor regarding unpaid wages?
37.	<p>Did this employee previously file a complaint under the Company's anti-harassment/anti-discrimination policy?</p> <ul style="list-style-type: none"> -Did the Company investigate that claim? -Did I investigate the current facts to ensure no retaliation for a prior complaint?
38.	Has the employee made a claim of discrimination or retaliation in the past or filed an administrative charge? [check status of the charge]
39.	Will the employee be surprised by the termination decision?
40.	Does this case involve compliance issues, which I should discuss with our compliance officer?
41.	Should I consider offering a separation package to the employee in exchange for executing a general release?
42.	Are the facts likely to give rise to publicity, which warrants prior consultation with a crisis management firm?
43.	Has the Company terminated/laid off other employees within a 30- and 90-day window (forwards and backwards) which could trigger an obligation to send a WARN Act notice?
44.	<p>Is the termination decision timely?</p> <ul style="list-style-type: none"> -If not, is there an extended delay between the problem behavior and the termination itself? -If yes, will the extended delay create significant risk if I proceed with the termination?
45.	Is this a difficult case that I should discuss with our employment counsel (internal and/or external)?

INDISPENSABLE TERMINATION CHECKLIST©

III. Prepare for Termination
Review the paperwork supporting the termination decision
Communicate with the person who knows the relevant facts (if necessary, involve legal counsel to ensure that the attorney-client privilege applies to the conversations)
Do not rely solely upon the statements made by the supervisor and conduct independent verification (if possible)
Review all relevant records and information gathered (<i>See Section I of Checklist</i>) and ensure that it supports the termination decision
Determine whether credible documentation or evidence exists to support the legitimate, nondiscriminatory reason for termination
Review relevant written policies and employee handbook (determine whether policies been followed)
If supervisor failed to follow progressive discipline or failed to document performance deficiencies, request supervisor to draft memorandum to HR (or person acting as the HR rep) explaining reasons that warrant employee's termination (copy legal counsel on rough drafts to maintain confidentiality and attorney-client privilege; decide whether to make final draft non-privileged and place in personnel file)
Conduct disparate treatment analysis (i.e., determine whether employees outside the employee's protected class who committed the same infraction were treated the same; if not, determine whether they are not proper comparators)
Delay the termination to allow for additional warnings, counseling, or opportunity for improvement, if such action is warranted based on review of supporting documentation
If the decision involves a position elimination, ensure that the replacement is not hired in the same position (prepare memo to file documenting basis for position elimination)
Follow Company procedures for handling terminations (e.g., obtain authorization from Company representative with ultimate responsibility for approving any termination)
Review terms of offer letter and employment agreement (if any) and create necessary notice letter if required; if employee is entitled to severance, determine if it is conditioned upon execution of a general release
Consult with legal counsel, if necessary, regarding difficult terminations (discuss whether to offer a separation package in exchange for signing a confidential general release of all claims)
Consider allowing employee to resign in lieu of termination
Decide whether it is necessary to offer notice of termination or wages in lieu of notice
Calculate final wages and payments/benefits owed to employee
<ul style="list-style-type: none"> • Determine what "wages" are owed (consider past practice, written documents, e-mail correspondence, offer letter, and employment agreement) • Decide whether Company has any obligation to pay accrued, unused PTO, vacation or sick time • Determine whether Company is required to pay severance based on a written severance plan, severance policy implied by past practice, or individual employment contract • Determine whether Company owes employee any other monies (e.g., unreimbursed business expenses, earned but unpaid bonuses/commissions, etc.) • Determine whether deductions are necessary for unpaid loans, wage overpayments, and whether those deductions are permitted under Florida and federal law • Review any obligations regarding stocks or other securities

INDISPENSABLE TERMINATION CHECKLIST©

III. Prepare for Termination
<ul style="list-style-type: none"> • Review governing plan documents and summary plan descriptions regarding termination of employee benefits (notify benefits administrators of status changes) • Address employee debts or outstanding loans (e.g., tuition advances) • Prepare General Release (if decision is made to offer a release) • If employee had health insurance, coordinate preparation of COBRA notice, if applicable; confirm whether health insurance provider allows coverage through the end of the month of termination • Prepare information regarding rollover of any 401(k) plans and other benefit information; review any obligations regarding life/disability insurance (if applicable) • If employee was subject to a wage garnishment order for child support or alimony (consult with legal counsel regarding legal obligations) • Prepare final paycheck (if possible)
Prepare internal termination paperwork consistent with Company policy
Develop a public relations strategy and prepare press releases (if applicable)
Consider whether it is necessary to consult a public relations professional or crisis management firm (depending on circumstances surrounding the termination)
Determine if employee used Company cell phone or a personal electronic device to conduct Company business (review applicable policy and executed consent forms to assess Company's ability to wipe the phone clean lawfully and remotely; check whether employee provided consent to review information on personal device, iCloud, etc.)
Evaluate what Company electronic information may be located on employee's home computer/laptop and portable communication device, iPad, Cloud storage, etc. (Review consent form signed by employee permitting wiping of phone, accessing iCloud, etc.); compile list of all locations where data may be stored, including cloud and other storage platforms
Decide how employee will return Company property and retrieve his/her personal property
Alert IT Director (or person in charge of IT) and security that employee will be terminated and what date/time
If Company does not employ security guards, determine whether it will be necessary to hire security guard for the day of the termination or longer (if necessary)
Determine whether any policy or agreement limits the employee's post-employment social media usage
Determine whether employee is the main contact for Company's social media accounts, and if so, whether Company has passwords to such accounts
Draft outline of issues or talking points to be discussed with employee during termination meeting, which includes property and electronic information to be returned and/or destroyed
Collect boxes for employee to pack up personal items (or decide to pack up belongings for the employee and video tape the process to avoid allegations of damage or loss)
Determine which member of management will serve as a witness during the termination meeting and take notes
Make note of any contractual obligations (e.g., employee signed a non-disclosure, non-solicitation, or non-competition agreement)

INDISPENSABLE TERMINATION CHECKLIST©

III. Prepare for Termination
Plan the transition of employee's job duties
Consider whether any creditors need to be notified of changes
Consider whether any Board resolutions are necessary to grant authority to other personnel
If employee serves in a special role for your company (e.g., he/she is the only individual holding a particular license), determine who can fill that role
Determine who will make the announcement of the employee's departure and what information will be communicated
Create clear communication plan to disseminate the information
Analyze whether the departure may affect employee morale (consider reassuring employees about the organization's transition plans)
Decide on appropriate day/time for termination meeting with employee and private location (if possible, try to avoid employee's birthday, holidays, anniversaries, etc.); the termination meeting should occur at a time when there will be no interruptions and the least number of employees at work
Schedule termination meeting
Rehearse delivery of the message
Prepare common questions that employees ask in termination meetings and sample answers (e.g., "Am I entitled to unemployment?" and "Can I have a letter of recommendation?")
Create list of Company property that needs to be collected from the employee
<ul style="list-style-type: none"> • Identification cards or badges • Electronic key FOBs • Card keys • Building keys and passes; desk keys • Parking permit/stickers/pass/card • Corporate credit cards; corporate gasoline credit cards; telephone calling cards • Desktop computer; laptop computer, tablet, and any other portable electronic devices, including passwords • Computer peripherals and accessories, such as external hard drives, software, speakers, scanners, fax machines, printers, webcams, screens, modems, security tokens, and flash drives • Cell phones and other portable communication devices • Employee Handbook • Uniforms • Tools • Safety equipment; Personal protective equipment/clothing • Desk files • Company vehicle and keys • Designs or formulas; samples; manuals • Financial information, customer lists, business plans, and other confidential information • Any other Company property

INDISPENSABLE TERMINATION CHECKLIST©

IV. Immediately Preceding Termination Meeting

Advise IT Director or appropriate personnel to (i) disable employee's network and system access privileges, including computer access, remote access, e-mail account, voicemail, and passwords immediately upon commencement of the termination meeting, (ii) backup data on employee's computer, and (iii) remove all organizational data from company-owned devices

Set automatic e-mail notification to alert sender that employee is no longer employed

Revoke access to corporate Dropbox account, shared repository for Company documents, or similar platforms

Establish a procedure for reviewing incoming e-mail and voicemail; change employee's voicemail

Remove and change all passwords **PRIOR TO** or during the termination meeting (e.g., online banking or other remote access financial services)

Change alarm codes and entry codes on keypad locks; consider whether any locks need to be changed

Reassess security risks; consider whether employee could potentially be violent and whether security should be called in advance of meeting

Advise security that employee is no longer authorized to access the property after a specific time (do NOT tell building security the reasons for the separation, unless the circumstances are such that you believe the communication is reasonably necessary to protect persons or property; if necessary, provide building security with a photograph of the terminated employee)

Notify website vendors, hosts, and platforms (if applicable)

Notify appropriate managers of termination decision and pending meeting

Does the employee need to resign as an officer or from the Board of Directors or other position? If so, make necessary preparations

Remove or be prepared to remove employee's name from the Company's website, social media networking websites, internal phone list, generic e-mail distribution lists, and building directory

Remove or be prepared to remove employee as contact for third parties or press releases

Prepare to notify employee's contacts (i.e., customers, clients, vendors, suppliers, etc.)

Contact bank and others, as applicable, to notify of change in signatory authority; change passwords

Cancel credit card account authorization and request balance and billing statement immediately to determine if improper charges have been made

Check any outstanding expense reports

Review timesheets (if employee is non-exempt)

Decide eligibility for re-employment in the future

Decide location (e.g., office or conference room), who will do the talking, who will take notes, and where everyone will sit

If employee needs to sign any documentation as per company policy, print out necessary documentation (e.g., termination paperwork, general release, acknowledgement of restrictive covenant agreement, etc.)

Decide whether employee will be permitted to pack up his/her belongings or whether the belongings will be shipped to the employee [*gather necessary boxes, tape, bubble paper, etc., so the process moves as smoothly as possible*]; if the Company is packing up the employee's belongings, videotape process and create inventory list

INDISPENSABLE TERMINATION CHECKLIST©

V. Termination Meeting

Meet with employee and witness in a private location, away from office traffic, and do not allow interruptions

Sit closest to exit or door

To avoid claim of false imprisonment, advise employee that the "door is closed for privacy, but you are free to leave at any time"

Inform employee of termination decision; keep the message clear and concise (don't engage in a lengthy discussion with employee or allow employee to debate Company's decision); the emphasis should be on the future; don't rehash past discussions; don't make excuses or minimize reason for termination; be direct with the employee and ensure that the employee understands that his/her employment has been terminated

Remain calm, professional, courteous and fair throughout the meeting (refrain from personal attacks or derogatory generalizations); be sensitive to the employee's anger without agreeing that the Company has made a mistake or acted inappropriately

Avoid comments that encourage litigation by highlighting inconsistency in the employer's motive, e.g., "This was not my decision."

Focus the message on the legitimate, non-discriminatory business reason for the termination decision and refrain from interjecting personal commentary, derogatory remarks or other extraneous information

Manage employee's expectations and inform the employee of the effective date of termination, when final paycheck will be received, when employee benefits coverage will terminate, and when COBRA notice will be sent, if applicable

If the Company decides to offer wages in lieu of notice, explain any monies that employee will receive (e.g., two weeks' wages in lieu of notice)

Provide information regarding any other benefits to which the employee is entitled or provide information on how the employee can obtain this information promptly

Discuss whether employee will receive additional payments after termination (e.g., earned bonus, commissions, earned/unused vacation, etc.)

Explain any available outplacement assistance services

If employee decides to resign, request written confirmation

Remind employee of post-employment obligations, such as non-compete, non-disclosure, or non-solicitation obligations (if applicable)

Discuss the employee's continuing obligation regarding confidentiality and privacy responsibilities (if applicable)

Clearly communicate to employee any limitations on his/her right to use social media to solicit employees or clients, or use contacts developed through employer-owned social media accounts

If Company decides to offer a General Release, present the release to the employee and explain that the Company is offering separation pay in exchange for signing a General Release

Collect Company property and electronically stored information (request access to personal devices, if previously authorized by employee in writing); request written acknowledgment that Company information has been removed from employee's personal devices

INDISPENSABLE TERMINATION CHECKLIST©

V. Termination Meeting

Catalog all media that is being returned by the employee including computers, cell phones, flash drives, and/or external hard drives; note the make and model of each device, serial number, and visible condition of the media (this will help eliminate disputes over what was and was not returned); obtain any passwords that the employee established for these devices and ensure that they work

Identity any Company-owned devices the employee possesses but is not returning at the time of the termination

Present final paycheck (if possible); if not, advise employee when he/she will receive final paycheck [To reduce safety risk, mail final paycheck to employee]

Verify employee's current address (necessary for COBRA notice and final paycheck)

Discuss information that the Company will provide if a potential future employer requests a reference (e.g., position, dates of employment, and salary)

Provide employee with a contact person and information for questions arising after the meeting

Explain how employee will obtain his/her personal belongings

Finish meeting and accompany employee to his/her locker or office to gather personal belongings (if meeting is contentious or employee poses security risk, respectfully escort employee to the exit and inform employee that his/her personal belongings will be boxed and shipped by the Company to employee's home)

Do NOT allow employee access to his/her computer [REMEMBER: Any documents stored on the Company's computer is the Company's property – even if the employee mistakenly saved a resume, personal addresses, etc., the employee has no right to such information. If the Company chooses to provide such information to the employee, the Company should retrieve the information and send it to the employee.]

INDISPENSABLE TERMINATION CHECKLIST©

VI. Post Termination

After employee leaves the property, prepare "Memorandum to File" summarizing termination meeting
Consult with security professional and legal counsel if threats were made during termination meeting
Inform receptionist or anyone who authorizes entry to the Company's offices that employee is no longer with the Company and to deny access
Remove employee's name from the Company's website, staff lists, phone directory, e-mail group lists, building directory, and organization chart, etc.
Change locks on doors, entry codes, alarm codes, etc.
Place executed General Release (if applicable) in personnel file
Place separation record in employee's personnel file
Terminate employee's status in HRIS system (if applicable) or notify payroll and other appropriate departments
Transfer the employee's responsibilities regarding current projects to a replacement or coworker(s)
Communicate departure to current employees (e.g., "John Doe is no longer with the Company"); if any employee questions why, respond- "It is not the Company's policy to discuss personnel decisions and we respect employee privacy."
Notify appropriate third parties (bank, mobile provider, credit-card provider, insurance provider, customers, clients, accountant, outside counsel, building management/security, etc.)
Implement external communication plans to minimize public relations issues
Mail final paycheck to former employee (if necessary)
Mail COBRA notice (if applicable); advise insurers
Discontinue premium payment for life/disability insurance (as appropriate)
Calculate any additional amounts owed for commissions, bonuses, etc., and calendar future payment obligations pursuant to policy
Discontinue automatic payroll deposits
Review final expense report (if applicable); make timely payments
Cancel company-paid subscriptions/memberships in professional associations
Respond to employee reference checks consistent with Company policy (preferably in writing)