

## PRE-TERMINATION CHECKLIST

The purpose of this checklist is to help identify a high-risk termination before the final termination decision is made. It does not mean an employee should not be terminated, but it is instead intended to give you pause before taking a risk you are not prepared to take. You should be able to write an answer to each question in the space below the question. This form will also be helpful if you consult an employment attorney before the termination.

\_\_\_ 1. Is the reason for the termination clear?

\_\_\_ 2. Are all those that participated in the decision in agreement with the grounds for termination?

\_\_\_ 3. Is there credible documentation and testimonial evidence to support the decision?

\_\_\_ 4. Is the termination consistent with the treatment of others in similar circumstances?

\_\_\_ 5. Has the office's termination policy been followed (see employee handbook)?

\_\_\_ 6. Are there any office policies that may protect the employee against being terminated from being discharged for the reasons contemplated?

\_\_\_ 7. Is there a progressive discipline policy, and, if so, has it been followed?

\_\_\_ 8. If progressive discipline was not followed, is there a basis for immediate termination?

\_\_\_ 9. Is there documentation to demonstrate compliance with progressive discipline?

\_\_\_ 10. Is there any chance the termination violates any state or federal laws that may prohibit termination in the circumstances present here?

\_\_\_ 11. Did criticism of the employee start only after the employee raised concerns of discrimination or other unlawful conditions at work?

\_\_\_ 12. Is the reason for termination consistent with problems that have been discussed with the employee in the past?

\_\_\_ 13. Will written performance evaluations or discipline actions support the termination decision?

\_\_\_ 14. Is the decision to terminate consistent with recent treatment of the employee (e.g. asserting poor performance but recently gave a pay raise)?

\_\_\_ 15. Has the employee's explanation of events leading up to the termination been considered, and, if so, is there credible evidence for rejecting the explanation?

\_\_\_ 16. Is the employment relationship likely to be found to be "at will" or could an implied contract not to terminate without cause be inferred?

\_\_\_ 17. Have any oral promises or representations been made to employees suggesting employment for a specified period of time (e.g. as long as their work is good, etc.)?

\_\_\_ 18. How long has the employee worked for the office?

\_\_\_ 19. Is there good cause for the termination?

\_\_\_ 20. Have alternatives to termination been considered and documented?

\_\_\_ 21. Has the employee been given the right to appeal the decision or to have the facts upon which the decision relies be investigated?

\_\_\_ 22. Is the employee the oldest employee and/or over the age of 45? If so, are you going to promote a younger employee or hire a younger employee for the job position?

\_\_\_ 23. Is the employee your own employee of the employee's race or ethnicity?