



When you have to terminate an employee

by Sherry Blyshak (From The Bottomline Feb/March 1999)

It is never easy to communicate your termination decision to the employee who violated company rules of conduct or failed to maintain performance at satisfactory levels. To approach this high-stress situation with some degree of comfort, it is important for all managers to be well versed in the proper process and technique to use when conducting a termination. Just as there are do's and don'ts when hiring; there are do's and don'ts when terminating.

To illustrate a few key points, let's examine a fictional termination from one of the most popular movies of 1996: "Jerry Maguire." In this romantic comedy, the title character, Jerry Maguire, is a sports agent employed by Sports Management International (SMI). As viewers, we are privy to the actual termination of Jerry Maguire and the movie provides us with a visual, fictional case study of what one should not do when terminating an employee.

DON'TS:

* Do not arrange to meet an employee in a restaurant or bar for the purpose of terminating his or her employment. Bob Sugar, a coworker, sets up a lunch date with Jerry in a restaurant. As soon as Jerry realizes the true purpose of the meeting he says with disgust, "A crowded restaurant, so there won't be a scene."

* Do not launch a surprise attack. Prior to termination, it appears the only inkling Jerry has that his job is in jeopardy is an offhand comment from a client's wife that Bob has contacted her husband without Jerry's knowledge. Essentially, Jerry walks into the restaurant for what he believes to be lunch with a friend and is blind-sided by the hidden agenda.

* Do not assign a friend or coworker to do the termination; it is the manager's job. We hear Bob say, "You know what I went through knowing I was going to have to fire my mentor? Carrying that around in my head for a week." Bob was not Jerry's supervisor; he should not have been charged with the responsibility of terminating a coworker.

* Do not use a slang term like fired. After Jerry sits down he asks, "What's up?" Bob responds, "I came here to let you go." Jerry replies in disbelief, "Pardon me?" Bob says in a very perfunctory manner, "I came here to fire you, Jerry." Termination of employment is a complex and serious action that should be referenced in professional terminology, not slang.

* Do not permit the terminated employee time to linger in the workplace beyond the time necessary to collect personal effects. After his termination Jerry races back to the office to telephone his clients. As he attempts to convince his clients to retain him as their agent we are witnesses to the changing color of the sky; through his office windows we see the sky turn from the brightness of high noon to the darkness of night.

* Do not permit your employees to discuss the termination of a coworker. We watch Bob follow Jerry back to the office and we hear Bob telling one of Jerry's clients, "Homeboy had a melt down or something. Completely freaked out."

* Do not give the terminated employee the opportunity to deliver a parting speech to an audience of coworkers. Some of Jerry's farewell address: "Let me just say, as I ease out of the office I helped build, I'm sorry, but it's a fact that there is such a thing as manners. A way of treating people. If anybody else wants to come with me, this moment will be the moment of something real and fun and inspiring in this god-forsaken business and we will do it together. Who's coming with me?"

I can assure you that although this was a fictional example, even in this day and age, I occasionally hear of managers who are handling terminations in similar, slipshod ways. Nothing seems to cause more stress for a manager than being charged with the responsibility of terminating someone's employment, particularly if he or she has not had much experience with this difficult task. Stress and inexperience are a very potent combination that often drives a manager into reckless action. Every manager should use a rational, methodic approach when conducting a termination; it's your best defense. To preface the list of recommendations regarding what you should do when terminating an employee it is important to note that these recommended actions do not apply in the event that there is the potential the employee may become violent.

If at any time during the course of the termination meeting the employee shows unexpected signs of aggressive, potentially violent behavior, excuse yourself and get out of the room. Contact security. With security in attendance, reenter the office and inform the employee that the meeting is adjourned. Tell the employee that he or she is released from employment and direct the employee to leave the property at this time. Any future communication with this employee should be done in writing. In order that appropriate safety measures can be taken, property management should be made aware of the employee's hostile behavior and of concerns regarding the potential for violence in the workplace.

DO's:

* A decision that is made by one person is rarely viewed as objective. The decision to terminate should never be at the sole discretion of one individual; it should be a conclusion that is reached by two or more managers who have a clear understanding of the particulars of the situation and company policies.

* A termination should never be a surprise. The employee should be

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Termination tips

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completely aware of company rules of conduct and performance expectations, the fact that his or her job is in jeopardy, and that termination may be imminent.

* There is an appropriate time and place for everything. Once the decision has been made to release the individual from employment, the individual should be contacted with regard to the meeting place and time. Do not discuss the outcome of the decision on the telephone; this must be done face-to-face. The termination meeting should be conducted in the human resource office or (if there is no HR department) the office of the manager to whom this individual reports. Additionally, it is not appropriate to schedule the termination at a time when the designated meeting place is generally bustling. Treating the employee with respect includes ensuring you have protected his or her privacy and dignity during the termination process.

* It is reckless to terminate an employee without a witness present. Decide in advance which two managers will represent the company in the termination meeting. One manager will conduct the termination and the other will act as a witness for both parties. The presence and purpose of the third party should be explained to the employee at the beginning of the meeting.

* Have all your homework done in advance. All company-required documentation such as written warnings, performance records, investigation notes, and signed handbook acknowledgments should be organized into a file in advance of the meeting. The controller should be notified in advance of the meeting to have the final paycheck prepared before the employee arrives. A list should be compiled of company property that must be returned by the employee.

* Conduct the termination meeting with the utmost professionalism. You must remain calm and composed throughout the entire process; you do not have the luxury of losing control. This is not the time to preach, to scold, or to harangue; this is a meeting to review the facts and to communicate the termination decision. Greet the individual in a businesslike manner and get down to business. Introduce the witness with a simple explanation of purpose: "I've asked (insert name of manager) to join us today. (He/she) will serve as a witness for both of us."

* Begin with a review of the rule violation or performance issue and the investigative process utilized to get at the truth of the matter. Make it brief; the employee is more concerned with the outcome than the painstaking process you've gone through to ensure that the termination decision is justified. Review the section of the handbook and/or any other documents (warnings, performance reviews, etc.) which were signed by the employee and which confirm that he or she knew this conduct or failure to perform might result in termination. If the employee knew his or her actions might result in termination, and he or she chose to do it anyway, the company decision to terminate should come as no surprise.

* Ask the employee if he or she has questions or any new information for you to consider. It's never over until it's over; if the employee suddenly comes forward with information that gives you reason to believe the termination is not justified, stop the presses!

If you hear some new piece of information that causes sirens to go off in the back of your head, do not proceed with the termination. Empower yourself to delay the termination for one more day and reopen your investigation. If there is no new information and everything appears to be in order, move on. At this point in the meeting the employee may feel compelled to give you a list of all the reasons he or she should be forgiven and reminders of past positive performance. Give the employee an opportunity to speak his or her piece, but keep in mind a string of home runs in the past do not erase the serious rule violation or poor performance problems of the present.

* Deliver the termination decision in businesslike terminology and tone. I suggest you say, "We have decided to release you from our employment." Fired, sent packing, and canned are not respectful terms to use when referring to an involuntary termination of employment. This is a very sensitive and disheartening situation; it is inexcusable to treat the employee disrespectfully regardless of how despicable you may find the violation of company rules or the poor performance. At this point, the employee will most likely react to the termination decision in one of three ways: anger, emotional breakdown, or nonchalance. Be prepared for emotions to run the gamut. Have a box of tissues on hand.

* Offer the employee an opportunity to appeal the termination. Most major companies now offer employees a chance to appeal a termination decision. The internal appeal process should be in writing and should be reviewed with the employee following communication of your termination decision.

* Direct the employee's thoughts toward the future. Discuss with the employee the company policy regarding providing references. The employee wants to be assured that the reason for leaving employment will be kept confidential and will not be shared with future employers. I would recommend requests for references be directed to Human Resources or to the General Manager.

* Close the meeting with a few housekeeping items. Provide an accounting of the company property that must be returned. Hand the employee an exit interview form and ask him or her to fill it out. Even when an employee loses his or her job involuntarily it is possible to gain suggestions and insights that have merit and the potential to improve the workplace. Hand the individual his or her final paycheck and review the status of any benefit payments such as vacation, sick time, medical, etc., which may be outstanding. Inform the employee of the company rules regarding returning to his or her workplace. If the terminated employee must go back to a work area to pick up personal belongings let the employee know that you intend to assist.

* Wish the employee well with future endeavors, but only if it is sincere and fitting.

Termination is difficult for all parties involved, but most of all for the individual who no longer has a job. In the end, it is what you say and how you say it that truly matters.



Originally printed in **The Bottomline**, a publication of the **Hospitality Financial & Technical Professionals**
-To join the **HFTP** and **The Bottomline**, call **1-800-646-4387**.

Work Cited: Jerry Maguire. Written and Directed by Cameron Crowe. Tom Cruise, Cuba Gooding Jr., Renee Zellweger, Kelly Preston, Jerry O'Connell, Jay Mohr, and Bonnie Hunt. TriStar Pictures, A Gracie Films production, 1996.

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AVOIDING WRONGFUL DISMISSAL LAWSUITS

By Ian Foster

Unfortunately, terminations bring with them the ever-present danger of litigation. Firing bar employees for over-pouring, theft or poor performance can open you up to a wrongful dismissal lawsuit.

Here are some essential tips that can help protect you.

Put your policies in writing

A jury will want to see that your policy rules were communicated to your employees. If the rules are not clearly written out and communicated to the employees, you could be opening the door to a wrongful termination suit. Opposing lawyers will try to show that your rules were simply devised ad hoc.

Develop employee manuals

One of your best tools is to have a written employee manual. Such a document should clearly spell out the employee's duties, your policies on a number of issues and instructions on basic job tasks.

Make sure you include a clear list of cash handling policies, tip policies, cash register instructions, drink pouring policies and, perhaps most importantly, drink recipes that clearly detail how much of each ingredient goes into each drink.

Implement effective inventory and cash controls

In order to prove that a termination is valid, you need to be able to show that objective standards were used to determine that policies were violated. The legal standards are much higher when proving theft or other serious charges. Circumstantial evidence, hearsay or unverifiable measurements, such as pour costs, are not adequate.

Having independent inventory auditors such as BEVINCO monitor your bar will virtually guarantee that you avoid problems.

Write warning letters for infractions

Juries are composed mainly of employees – not supervisors – and they will view as unfair any termination decision that was not preceded by a chance to remedy performance shortfalls.

Furthermore, if you have documented evidence of violations of the same rule on two or three occasions, you will be on very solid legal ground.

Apply disciplinary action consistently

One of the easiest ways for an employee to prove unlawful discrimination is to show that co-workers who committed similar infractions were disciplined less harshly.

Carefully investigate the incident

Did you have an impartial party, such as another manager, look into the incident? Did you listen to the employee's version of the story? A fair process should always precede terminations.

Above all, consider termination a last resort.





You're Fired!

- What to do when you have to terminate an employee

Terminating an employee is always an unpleasant task - for all parties involved. It means admitting that you hired the wrong person, or worse, failed to train them properly. And just how do you tell someone that they are fired? The potential for confrontation and ugliness is high. Even more importantly, terminating an employee improperly is among the most common ways of ending up in an expensive, time-consuming employment litigation case.

Sherry Blyshak is currently a student at Sam Houston State University in Huntsville, Texas. She brings 25 years of experience as a human resources professional in the hospitality industry in offering her advice on terminations beginning on page 1.

On page 3 we reprint a brief article from the Supervisor's Guide to Employment Practices that summarizes the critical questions that you must answer in order to steer clear of an unfair termination lawsuit.

For more - see articles on pages **1 & 3**



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