

# Final Written Warning and Suspension

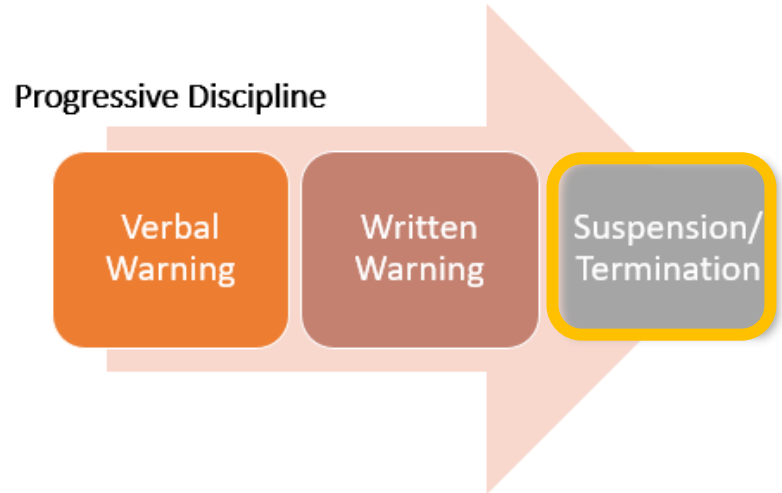
This step may be appropriate when performance or behavioral issues continue.

Progressive Discipline



# Termination

The final step of the progressive discipline process may be termination.



# Progressive Discipline Guidelines

- Determine if the problem is behavioral or performance-related.
- Investigate the situation.
- Is the employee aware of the expectations?
- Impose disciplinary actions, if warranted.
- Provide objective reasons for the discipline.
- Focus on the behavior/performance.
- Be consistent.



# Progressive Discipline Meetings

- Conduct the meeting in private.
- Consider having a witness present.
- Consider the employee's potential reaction.
- Have clear goals.
- Begin the meeting promptly and professionally.
- Clearly state the problem.
- Never verbally attack the employee.
- Ensure two-way communication.
- Remain calm.
- Time the meeting carefully.
- Establish a follow-up plan.
- End the meeting on a positive note.



# Best Practices

- Apply a fair and consistent process.
- Investigate the situation before moving to progressive discipline.
- Be sure to address the specific behavior or performance issue.
- Remain calm and objective during the conversation; only cite objective factors.



# Goals of Conducting a Termination

Protect	Minimize	Minimize
Protect the company.	Minimize the pain to the exiting employee.	Minimize the disturbance to the workplace.

# Reasons for Termination



Misconduct and violation of company policy

Unsatisfactory performance

Organizational changes

# Termination Meeting

- Consider safety concerns including what items will be in the room.
- Make it clear that the employee has been terminated. Tell the employee immediately.
- Avoid personal references or accusations that cannot be proven.
- Have a witness present.
- Be prepared for the employee's reaction.
- Discuss last paycheck and other issues that need to be closed.
- Comply with state termination requirements.
- Maintain confidentiality.



# Prohibited Practices



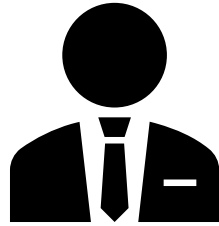


## Constructive Discharge

Constructive discharge may be alleged when an employee feels compelled to resign because an employer makes conditions so intolerable for an employee that a “reasonable person” would have resigned.

To establish an involuntary termination, an employee may also need to show that the constructive discharge was motivated by a discriminatory intent.

# Negligent Supervision and Retention



## Negligent Supervision

When someone who has a legal responsibility to supervise others fails to do so in a responsible manner.



## Negligent Retention

When an employer fails to take appropriate disciplinary action toward an employee and the employee harms another employee or customer.

# Reasons for Termination



Misconduct and violation of company policy

Unsatisfactory performance

Organizational changes

# Termination Meeting

- Consider safety concerns including what items will be in the room.
- Make it clear that the employee has been terminated. Tell the employee immediately.
- Avoid personal references or accusations that cannot be proven.
- Have a witness present.
- Be prepared for the employee's reaction.
- Discuss last paycheck and other issues that need to be closed.
- Comply with state termination requirements.
- Maintain confidentiality.



# Prohibited Practices





## Constructive Discharge

Constructive discharge may be alleged when an employee feels compelled to resign because an employer makes conditions so intolerable for an employee that a “reasonable person” would have resigned.

To establish an involuntary termination, an employee may also need to show that the constructive discharge was motivated by a discriminatory intent.

# Negligent Supervision and Retention



## Negligent Supervision

When someone who has a legal responsibility to supervise others fails to do so in a responsible manner.



## Negligent Retention

When an employer fails to take appropriate disciplinary action toward an employee and the employee harms another employee or customer.

# Providing References

How to handle these requests depends on your company's policy.





## Negligent Referral

Negligent referral and negligent misrepresentation are based on the argument that employers have an obligation to disclose negative information about former employees when the information has a significant bearing on the job in question.

Typically, this would be applicable when the employee would present a safety risk to others.

If this is the case, the employer should contact a labor attorney.



## Defamation

Defamation is a false statement that damages a person's reputation by inference and results in injury.

However, just as employers can be held liable under the negligent hiring and negligent retention theories, failure to provide information or providing incorrect information may result in a negligent referral or negligent misrepresentation claim.

# Summary

During this training, we discussed:

- Having a Standards of Conduct policy
- Progressive discipline
- The importance of documentation
- Goals for effective progressive discipline including terminations:
  - Protect the company
  - Minimize the pain
  - Minimize the disturbance
- Potential legal issues employers should consider with respect to terminations
- Best practices for conducting terminations

Questions or Comments?

*Thank you for attending the*

---

# Effective Employee Discipline and Terminations Seminar

*for Managers and Supervisors*

---

Professional employer organization (PEO) services are sold and provided by Paychex Business Solutions, LLC (PBS) and its affiliates, which are registered and licensed to sell and provide PEO services, including in Florida. PBS FL license numbers are Paychex Business Solutions, LLC, GL7, PBS of Central Florida, LLC, GM14, PBS of America, LLC, GM46, Paychex PEO I, LLC, GM455, Paychex PEO II, LLC, GM456, Paychex PEO III, LLC, GL193, Paychex PEO IV, LLC, GM519 and Paychex PEO V, LLC, GM 522, Paychex PEO VI, LLC, GM627.