



Ring in the Holidays

With the holidays quickly approaching, we here at O2HR are thinking of ways to reach out and help those in need this holiday season. If you are in touch with a family in need and would like for O2HR to reach out and help this holiday season, please submit a written request and reason we should consider the family you nominate. Submit requests to rcarrano@o2hr.com or mail to Renee Carrano's attention at one of our offices. Please be sure and include a contact for us to reach once we have made our final decision. All requests must reach us no later than November 15th. We at O2HR would like to give back to those in need this holiday season.

Important Dates

October is National Domestic Violence Awareness Month

- October 31—** Halloween: Drive with caution as there will be children on the roads.
- November 4th—** Daylight Savings Time ends.
- November 12th —** Veterans Day: Banks will be closed. O2HR will remain open normal business hours.

EMPLOYEE TERMINATIONS

As careful as you may be to select the best employees available and to manage them well, it's likely that, at some point, you'll have to fire somebody. For most, this is definitely not a job to look forward to. Making it worse are the facts that there is a growing body of law that limits your right to fire workers, and that more and more workers seem to be filing (and winning) lawsuits against their former employers.

Even in an "At-Will-Employment" relationship several questions must be asked prior to taking action. Review the proposed termination for the following items:

- Review the employee's overall work record.
- Ensure proper disciplinary procedures have been followed and documented.
- Ensure employee was made aware of the behavior.
- Termination reason(s) should be consistent with prior actions.
- Ensure termination reason is job-related and non-discriminatory.
- Explore alternatives of termination, such as transferring, counseling or demotion.
- Ensure the employee has received all rights under company policy.
- Determine whether the incident has been properly investigated and documented.
- Did the employee have a legitimate explanation for his/her actions or poor performance?
- Ensure the employee has not been the victim of an improper employment action.

Review the proposed termination with O2HR's HR Department prior to taking any action to reduce liability regarding wrongful termination and/or discrimination.

The manner in which an employee is informed about his/her termination can influence whether the employee will sue for wrongful discharge and whether he/she will be able to win the suit. The following steps are recommended:

- Make it clear that the employee is discharged.
- Avoid personal references and/or accusations that cannot be proven.
- Be prepared for the employee's reaction.
- Reassure the employee (but not to the extent that the termination decision seems inconsistent).
- Give the employee time to collect his/her thoughts.
- Finally, address last paycheck, termination of benefits and other issues that need to be closed.
- When possible and appropriate, exit interviews should be conducted.

OTHER CONSIDERATIONS WHEN TERMINATING AN EMPLOYEE

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| <ul style="list-style-type: none"> • Fair Labor Standards Act (FLSA) • Civil Rights Act of 1964 & 1991 (Title VII) • Age Discrimination in Employment Act (ADEA) • Family Medical Leave Act (FMLA) • The Americans with Disabilities Act (ADA) | <ul style="list-style-type: none"> • Employment contracts • Collective Bargaining Agreements • Worker's Compensation related issues • Potential retaliation claims • State / County / Local laws • The former employee may be your best (or worst) "sales-person" depending on how they are treated |
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UNEMPLOYMENT COMPENSATION

If you fire or lay off an employee, or if a worker quits, you may be faced with a claim for unemployment benefits. Unemployment benefits are designed for people who lose their jobs due to no fault of their own, such as those who are laid off because an employer doesn't have enough work for them. When a worker clearly deserves unemployment benefits, there's no point in racking up legal fees trying to contest a claim. However, if an employee quits to start his or her own business, or you fire someone for stealing, coming to work intoxicated or excessive absences, you may want to defend the claim. Contesting a claim can pay off because your state unemployment tax rate goes up in direct relation to the number of former employees who are collecting unemployment from you. In addition, if you contest a claim and win, it may discourage workers from filing a lawsuit.

Workers can be disqualified for unemployment benefits if they:

- Were fired for misconduct
- Quit without good cause.
- Turn down a suitable job offer during the unemployment period.
- Are participating in a strike or work stoppage caused by a labor dispute.
- Are receiving Social Security benefits, severance pay, workers' compensation payments or a private pension.

Gather documentation: Whenever an employee quits or is fired, gather all records that may influence an unemployment claim. For employees who are fired for misconduct, documents should include written records of warnings and progressive disciplinary actions taken. If there are any witnesses to the employee's actions that led to the termination, get written statements from them.

Fill out the employer notification form: If you receive a claim notification form forward it to O2HR immediately. All states have deadlines on the submission of claim form responses. If a deadline is missed, chances are the employee will automatically be awarded unemployment benefits.

Participate in hearings: If there are any hearings scheduled before the state unemployment agency, your participation is essential to defending the claim. In most cases you may participate via telephone. Be prepared to present first hand testimony of the circumstances of the termination. If you do not have first hand knowledge, have all relevant witnesses to the termination available to provide testimony at the time of the hearing.

HELPFULL TIPS

- In unemployment cases, the burden of proof is on the person who initiates the work separation. If an employee quits, he or she must prove "good cause"; if an employee is fired or laid off, the employer must prove that the claimant should be disqualified from receiving benefits
- Warning notices that are signed by the employee generally have greater impact with the unemployment agency because they show that the employee was aware of their misconduct
- If you discover any new information that would disqualify a former employee for benefits, report the facts to O2HR immediately. For example, if you discover that a former employee has started a business or didn't accept a job offer
- If you fire an employee for breaking an "unwritten rule", you will have to prove that the former employee was aware of the rule and that you have uniformly enforced the rule

Quick Fact: According to the U.S. General Accounting Office, more than \$500 million in UI benefits are overpaid due to fraud each year, including \$300 million attributed to unreported earnings during periods in which benefits are collected. Another \$400 million is overpaid due to errors in reported or unreported income that may affect the claimant's eligibility for UI benefits.

O2HR BENEFITS: In today's tough market employers need every edge when attracting and hiring top candidates. That's why we work hard to provide you with quality benefit plans to help recruit and retain the best employees at the lowest possible cost to you. In addition our partnership with Health Advocate helps your employees stay healthy. This translates to lower wages you pay for lost sick time and low performance. Below are just a few of the benefits your employees may be eligible for*.

Aetna Major Medical Plan: Major medical plans available through Aetna with contribution and participation requirements by the client site. HMO, Managed Choice POS and PPO plans are available

Aetna Dental: Dental coverage available through a PPO or DMO plan. Both plans coverage adult and juvenile orthodontia. Discount Vision coverage included on both plans.

Aetna/SRC Limited Benefit Plan: Employee paid Limited Benefit Plans with \$5,000 and \$10,000 limits. No contribution or participation requirements for the client site.

Pet Insurance: Coverage for pets that includes basic immunizations and procedures.

Pre Paid Legal Services: Comprehensive legal plan with identity theft protection.

Health Advocate: Service that helps your employees file grievances, appeals and get claims paid properly.

AFLAC: Voluntary supplemental coverage available such as Cancer Indemnity, Hospital Protection, Personal Accident Indemnity and Specified Health Event Protection plans.

Credit Union: Three different credit union options available based on location for Florida clients.

Liberty Discount Card: Coming Soon!!- Offers discounts for dental, vision and prescription services.

Advantica Vision: Vision plan with coverage for exams, frames, lenses and contacts. Discounts on some services as well as covered expenses.

401(k) Retirement Plan: Save for Retirement with a variety of investment opportunities. Client sites can choose to match employee contributions as well as other options.

Contact a member of the O2HR Benefits Department for more information

*State and Local Restrictions May Apply