

# HOW TO; How to Fire Someone Without Being Sued

By CAMERON STRACHER APRIL 8, 2001

1. Do not fire anyone 40 or older, pregnant, with children, married, female, gay, disabled, non-Caucasian, religious or born in another country. These are the major categories of "protected" employees under state and federal laws. If you cannot follow this, go to Rule 2. Otherwise, go to Rule 6.

2. Fire everyone. The more employees who are treated the same, the harder it is for affected employees to claim discrimination. If you cannot follow this, go to Rule 3. Otherwise, go to Rule 6.

3. Fire everyone in the same division, unit or level. If you cannot follow this, go to Rule 4. Otherwise, go to Rule 6.

4. Fire only those employees with well-documented and written performance problems. Many lawsuits are lost over a lack of concrete evidence about employment decisions. If you cannot follow this, go to Rule 5. Otherwise, go to Rule 6.

5. Fire only those employees for whom managers can articulate a legitimate business justification for their termination. The law requires this -- at a minimum. Go to Rule 6.

6. Do not violate any internal company procedures when selecting employees for termination; for example, any policies that require a written warning before termination. It will be used against you.

7. Offer terminated employees a severance payment in exchange for signing a release that has them give up their right to sue the company. If the company already has a policy that guarantees severance, offer additional severance in exchange for the release. This is one of the safest ways to nip a lawsuit before it blooms. If the employee won't sign the release, go to Rule 8. Otherwise, go to Rule 9.

8. Do not threaten the employee. It will only stoke the flames and become Exhibit A in a lawsuit.

9. Give the employee a brief but specific reason for the termination. Don't wait for a lawsuit to explain.

10. Be kind. Remember that many lawsuits, though ultimately meritless, are filed by employees who believe they were treated badly by management. So don't have terminated employees escorted from the workplace by armed guard unless it's absolutely necessary.

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