

PAYROLL

Employers must keep the following records for at least 3 years for each employee, other than exempt employees paid on other than an hourly basis.

1. Name and address.
2. Date of Birth.
3. Date of entering and leaving employment.
4. Time of beginning and ending of work each day.
5. Time of beginning and ending of meal period:
 - a. When the employee's meal periods are required or when such meal periods are to be deducted from work time.
 - b. This requirement shall not apply when work is of such a nature that production or business activity ceases on a regularly scheduled basis.
6. Total number of hours worked per day and per week.
7. Rate of pay and wages paid each payroll period.
8. The amount of and reason for each deduction from the wages earned.
9. The employee's production, if paid on other than time basis.

Requirement

Employees under 18 years of age must receive at least a 30-minute duty free meal period when working a shift greater than 6 hours in duration. Section DWD 274.02(2) recommends that employers provide similar breaks to adults but does not require such breaks for adults. If an employer provides breaks of less than 30 consecutive minutes in duration, the break time will be counted as work time.

Employers must pay all employees for "on duty" meal periods. An "on duty" meal period is one where the worker is not provided at least 30 consecutive minutes free from work, or where the worker is not free to leave the premises of the employer during a meal period.

Employers also are not allowed to require that meals be accepted as part of the worker's wages.

State law does **not** require that brief rest periods, or coffee breaks, be provided to employees. Such matters are to be determined between the employer and the employee directly.

Rest periods or breaks of less than 30 consecutive minutes each shift are considered work time and must be paid for. Employers may not deduct from a worker's wages for any time off less than 30 consecutive minutes.

The state overtime law applies to most Wisconsin employers, including state and local units of government but not necessarily to each individual worker. Covered workers, regardless of age, must be paid 1 1/2 times their regular rate of pay for all hours worked in excess of 40 hours a week.

The law applies to factories, mercantile (see definition of mercantile) or mechanical establishments, restaurants, hotels, motels, resorts, beauty parlors, retail and wholesale stores, laundries, express and transportation firms, telegraph offices and telephone exchanges.

"Mercantile" means, "pertaining to merchants or trade," and is viewed with regard to profit or designed for profit; designed for mass appeal, emphasizing skill and subjects useful in business. "Trade" means the business or work in which one engages regularly, an occupation requiring manual or mechanical skill; the persons engaged in an occupation, business, or industry, dealings between persons or groups, the business of buying and selling or bartering commodities or services, to do business with, to have dealings, to give one thing in exchange for another.

Under the Wisconsin Employment of Minors regulation, 16 and 17-year-old minors may be employed more than 8 hours a day or 40 hours a week when school is not in session. They must receive one and one half times the regular rate of pay, for all hours worked in excess of 10 hours per day or 40 hours per week and that, they do not work in excess of 50 hours per week. The exception to this rule is that minors who are 14 to 17 years of age may be employed more than 50 hours per week in agriculture during peak periods.

Arrest and Conviction Record

Overview

State law protects workers from workplace discrimination because of arrest or conviction record under certain circumstances. However, it is not employment discrimination under the law when an employee's arrest or conviction is substantially related to the employment.

The statute of limitations for filing a complaint is 300 days from the date the action was taken or the individual was made aware the action was taken.

What is an arrest or conviction record?

An arrest record is information that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any

felony, misdemeanor or other offense. A conviction record is information indicating that a person has been convicted of any felony, misdemeanor or other offense, been judged delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned or paroled by any law enforcement or military authority.

What does it mean for an arrest or conviction to be substantially related to the employment?

An arrest or conviction is "substantially related" to a job when there is some overlap between the circumstances of the job and the circumstances of the offense. For example, a theft related conviction is substantially related to a cashier position. A drunk driving offense is substantially related to a position as a truck driver. However, a drunk driving offense is probably not substantially related to a cashier position.

What actions are covered?

When an individual's arrest or conviction record motivates the adverse decision, it becomes unlawful discrimination. Specifically, the law prohibits discrimination in recruitment and hiring, job assignments, pay, leave or benefits, promotion, licensing or union membership, training, layoff and firing, harassment, and other employment related actions.

Frequently Asked Questions

Can an employer discharge a current employee because of a pending criminal charge?

An employer may suspend an employee if the pending criminal charge is substantially related to the circumstances of the particular job or licensed activity.

Can an employer refuse to hire a person because of a record of arrest that did not lead to conviction?

No. An employer is not allowed to ask about arrests, other than pending charges.

What can an employer ask regarding arrest and conviction records?

An employer may ask whether an applicant has any pending charges or convictions, as long as the employer makes it clear that these will only be given consideration if the offenses are substantially related to the particular job. An employer cannot legally make a rule that no persons with conviction records will be employed. Each job and record must be considered individually.

Can an employer refuse to hire an applicant because of a lengthy record of convictions or conviction for a crime the employer finds upsetting?

An employer may only refuse to hire a qualified applicant because of a conviction record for an offense that is substantially related to the circumstances of a particular job. Whether the crime is an upsetting one may have nothing to do with whether it is substantially related to a particular job.

What if an employer believes a pending charge or conviction is substantially related but the employee or applicant believes it is not?

In this situation, the employee or applicant may file a complaint and the Equal Rights Division will make a determination as to whether there is a substantial relationship.

Can an employer refuse to hire or discharge a person with a pending charge or conviction because other workers or customers don't want the person with a conviction there?

No. The law makes no provision for this type of problem. The employer must show that the conviction record is substantially related to the particular job. Co-worker or customer preference is not a consideration.

Is it a violation of the law if the applicant's conviction record is only a part of the reason for not being hired?

Yes. A conviction record that is not substantially related to that particular job should be given no consideration in the hiring process.

How should an applicant answer questions on an application regarding conviction record?

It is best to answer all questions on an application as honestly and fully as possible and to offer to explain the circumstances of the conviction to the employer.

Can an employer refuse to hire an applicant because they failed to disclose all requested criminal background information on an application?

Yes, an employer who discovers that an applicant has provided false or misleading information in response to a question on a job application may refuse to hire that applicant without violating the law. In this case, the decision not to hire the applicant is because of dishonesty rather than the applicant's conviction record.

Should an employer ask about the circumstances of a conviction during an interview?

Yes. An employer must obtain enough information to determine if the conviction record is substantially related to the job. If the employer decides there is a substantial relationship, employment may be refused but the employer must be prepared to defend the decision if the applicant believes there is not a substantial relationship and files a complaint.

Employers are only allowed to deduct certain items from an employee's wages, such as taxes, insurance premiums, etc. Employers are not permitted to charge employees for breakages, cash shortages, fines or any other losses to the business, unless you have authorized the deduction in writing.

Work Permits

Child Labor

Law Change - Effective June 23, 2017

Work Permit Requirements

- A work permit is required before anyone under the age of 16 is allowed to work in any job with the exception of agriculture or domestic service work.
- Employers must have a work permit on file for the minor being employed before they may allow the minor to begin work.

Where can I get a Work Permit?

Work permits are issued at [various locations throughout the state](#). You may apply for a work permit at your school office or call (608) 266-6860 for information on where in your area you may apply for a work permit.

NOTE: The permit will not be issued if the work is prohibited by law.

How to Obtain a Work Permit

To obtain a work permit, either the minor alone or the minor and a parent must visit the permit officer, taking with them:

- the minor's birth certificate or other [proof of age](#),
- the minor's social security card
- letter from the employer expressing intent to hire, on employer's regular letterhead, describing:
 - job duties,
 - hours of work,
- a written parents consent
- a \$10.00 permit fee

Proof of Minor's Age

We may accept a valid operator's license or an identification card issued by the Wisconsin Department of Transportation as proof of a minor's age. This means that we may now accept either a duly attested birth certificate, a verified baptismal certificate, or a driver's license or photo ID card issued by the Wisconsin Department of Transportation.

For the Employer - Permit Fee Requirement

The employer **must reimburse the \$10.00 permit fee to the minor** by no later than the date of the first paycheck.

Copies of the permit go to the employer and the minor, in addition to the school district where the minor is enrolled.

Poster Posting Requirements

Every employer, employment agency, labor organization and licensing agency subject to the act shall post in a conspicuous place upon its premises, a poster prepared and made available by the department, relating to the provisions of the act and this chapter.

Whether an employer chooses to pay the overtime premium directly in wages or offers the employee compensatory time, the employer is obligated to pay the person 1 ½ times their regular rate of pay for the overtime hours. If the employer pays the overtime premium by allowing the employee to use compensatory time the employee is entitled to use 1.5 hours of compensatory time for each overtime hour worked. Nongovernment employers must also ensure the employee uses the compensatory time within 31 days of when the time is earned.

An employer and an employee do not have the authority to reach an agreement to waive a state law or regulation concerning overtime pay. Since federal law may also require an employer to pay its employees overtime pay, it should be noted that a modification or waiver of state overtime rules would not exempt the employer from any federal overtime



Department of Workforce Development

Direct Deposit of Wages

Overview

Wisconsin labor standards laws do not directly address the issue of direct deposit of wages. However, several laws have an indirect impact on how direct deposit programs may be used.

Mandatory Direct Deposit

Mandatory direct deposit systems are permitted under certain circumstances:

The employee must be able to collect his or her wages at a bank or facility in the State of Wisconsin.

The employee must receive all of his or her wages, and cannot be made to incur any charges to receive them. If an employee uses an existing bank account, generally this will cause no problem. If an employee does not bank, and has to establish an account solely for the purpose of receiving wages, all fees must be covered by the employer.

Voluntary Direct Deposit

If an employer chooses to institute a direct deposit pay system that is available at the option of the employee, it is immaterial whether or not there are fees associated with obtaining the wages. If the employee chooses to use the direct deposit system, it is assumed that the employee has agreed to pay these fees for the convenience and security of having the wages placed directly into his or her bank account.

Direct Deposit as a Condition of Employment

Because this issue is not addressed in the statutes, an employer may make employee participation in a direct deposit pay program a condition of employment. An employer may also require that established employees participate in a direct deposit system as a condition of continued employment.

Wisconsin Statutes

Wis. Stat. § 103.45

[Wisconsin Statutes 103.45](#), states that wages paid in a method other than cash must be paid "in some designated place of business in the county in which the work was performed, or at the office of the person paying the wages if within this state, or at any bank within this state." This means that a direct deposit system must utilize a Wisconsin facility unless the employee voluntarily chooses a facility that is located outside of the state.

Wis. Stat. § 109.03(1)

[Wisconsin Statutes 109.03\(1\)](#) requires an employer to make timely payments to workers, and that wages be paid in full on the corresponding pay date. This means that a mandatory direct deposit system must provide a worker with 100% of his or her wages without the worker incurring any cost to gain access to their pay (check fees, service charges on an account, etc.).

For More Information

- [Contact Info](#)
- [Complaint Process](#)
- [Labor Standards Complaint Form](#) (LS-119-E)

Fact Sheet #16: Deductions From Wages for Uniforms and Other Facilities Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to deductions from employees' wages for uniforms and other facilities.

Characteristics

The FLSA does not allow uniforms, or other items which are considered to be primarily for the benefit or convenience of the employer, to be included as wages. Thus, an employer may not take credit for such items in meeting his/her obligations toward paying the [minimum wage](#) or [overtime](#).

Requirements

Uniforms: The FLSA does not require that employees wear uniforms. However, if the wearing of a uniform is required by some other law, the nature of a business, or by an employer, the cost and maintenance of the uniform is considered to be a business expense of the employer. If the employer requires the employee to bear the cost, it may not reduce the employee's wage below the [minimum wage](#) of \$7.25 per hour effective July 24, 2009. Nor may that cost cut into [overtime](#) compensation required by the Act.

For example, if an employee who is subject to the statutory [minimum wage](#) of \$7.25 per hour (effective July 24, 2009) is paid an hourly wage of \$7.25, the employer may not make any deduction from the employee's wages for the cost of the uniform nor may the employer require the employee to purchase the uniform on his/her own. However, if the employee were paid \$7.75 per hour and worked 30 hours in the workweek, the maximum amount the employer could legally deduct from the employee's wages would be \$15.00 (\$.50 X 30 hours).

The employer may prorate deductions for the cost of the uniform over a period of paydays provided the prorated deductions do not reduce the employee's wages below the required [minimum wage](#) or [overtime](#) compensation in any workweek.

Other Items: Employers at times require employees to pay or reimburse the employer for other items. The cost of any items which are considered primarily for the benefit or convenience of the employer would have the same restrictions as apply to reimbursement for uniforms. In other words, no deduction may be made from an employee's wages which would reduce the employee's earnings below the required [minimum wage](#) or [overtime compensation](#).

Some examples of items which would be considered to be for the benefit or convenience of the employer are tools used in the employee's work, damages to the employer's property by the employee or any other individuals, financial losses due to clients/customers not paying bills, and theft of the employer's property by

the employee or other individuals. Employees may not be required to pay for any of the cost of such items if, by so doing, their wages would be reduced below the required [minimum wage](#) or [overtime compensation](#). This is true even if an economic loss suffered by the employer is due to the employee's negligence.

Employers may not avoid FLSA [minimum wage](#) and [overtime](#) requirements by having the employee reimburse the employer in cash for the cost of such items in lieu of deducting the cost from the employee's wages.

Typical Problems

(1) A [minimum wage](#) employee working as a cashier is illegally required to reimburse the employer for a cash drawer shortage. (2) An employer improperly requires tipped employees to pay for customers who walk out without paying their bills or for incorrectly totaled bills. (3) An employer furnishes elaborate uniforms to employees and makes them responsible for having the uniforms cleaned. (4) An employee driving the employer's vehicle causes a wreck, and the employer holds the employee responsible for the repairs, thereby reducing the employee's wages below the [minimum wage](#). (5) A security guard is required to purchase a gun for the job, and the cost causes him/her to not earn the [minimum wage](#). (6) The cost of an employer-required physical examination cuts into an employee's [minimum wage](#) or [overtime](#) compensation.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)



U.S. Department of Labor Wage and Hour Division



BASIC INFORMATION

current as of June 2012

The U.S. Department of Labor's Wage and Hour Division (WHD) is responsible for administering and enforcing laws that establish minimally acceptable standards for wages and working conditions in this country, regardless of immigration status.

FAIR LABOR STANDARDS ACT



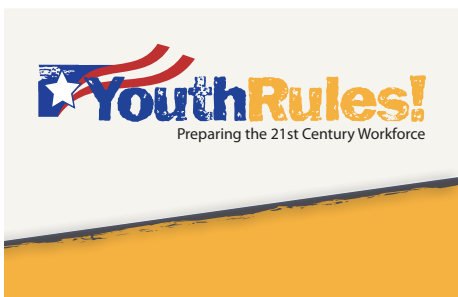
The Fair Labor Standards Act (FLSA) affects most private and public employment. The FLSA requires employers to pay covered non-exempt employees at least the federal minimum wage and overtime pay for all hours worked over 40 in a work week.

Covered employees must be paid for all hours worked in a workweek. In general, compensable hours worked include all time an employee is on duty or at a prescribed place of work and any time that an employee is suffered or permitted to work. This would generally include

work performed at home, travel time, waiting time, training, and probationary periods.

- Federal Minimum Wage:
\$7.25 per hour effective July 24, 2009
- Tipped employees may be paid \$2.13 per hour; if an employee's tips combined with cash wage does not equal the applicable minimum wage, the employer must make up the difference
- Overtime after 40 hours in a week = 1 ½ times an employee's regular rate of pay

CHILD LABOR



The FLSA also regulates the employment of youth.

Jobs Youth Can Do:

- 13 or younger: baby-sit, deliver newspapers, or work as an actor or performer
- Ages 14-15: certain permitted in such establishments as office work, grocery store, retail store, restaurant, movie theater, and amusement parks
- Age 16-17: Any job not declared hazardous
- Age 18: No restrictions

Hours Youth Ages 14 and 15 Can Work:

- After 7 am and until 7 pm
(Hours are extended to 9 pm June 1–Labor Day)
- Up to 3 hours, including Fridays
on a school day
- Up to 18 hours
in a school week
- Up to 8 hours
on a non-school day
- Up to 40 hours
in a non-school week

Note: Different rules apply to youth employed in agriculture. States also regulate the hours that youth under age 18 may work. To find more information on federal or state rules, log on to www.youthrules.dol.gov.

FAMILY AND MEDICAL LEAVE ACT



The Family Medical and Leave Act (FMLA) applies to employers who employ 50 or more employees, public agencies, and elementary and secondary schools. Eligible employees are entitled to take unpaid, job-protected leave with continuation of group health insurance coverage for up to 12 workweeks in a 12-month period for:

- the birth and care of a newborn child;
- the placement and care of an child for

adoption or foster care;

- for the serious health condition of the employee or the employee's spouse, child, or parent;
- for qualifying exigencies arising out of a covered military member's covered active duty status.

And 26 workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT



The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires farm labor contractors, agricultural employers, and agricultural associations who "employ" workers to:

- Pay workers the wages owed when due
- Comply with federal and state safety and

health standards if they provide housing for migrant workers

- Ensure that vehicles that they use to transport workers are properly insured, operated by licensed drivers and meet federal and state safety standards
- Provide written disclosure of the terms and conditions of employment

CONTACT US:

1-866-4US-WAGE

MORE INFORMATION AVAILABLE AT:

YOUTHRULES!: WWW.YOUTHRULES.DOL.GOV

WHD WEBSITE: WWW.WAGEHOUR.DOL.GOV

ELAWS: WWW.DOL.GOV/ELAWS

DOL WEBSITE: WWW.DOL.GOV

STATE OF WISCONSIN WORK PERMIT REQUEST FORM

The following items **MUST BE PROVIDED IN PERSON** before a work/street trades permit can be issued to the minor or parent/guardian:

- REQUIRED:** A duly attested **birth certificate (preferred form of age documentation)**, or a **verified baptismal certificate**, or a **driver's license**, or **photo ID card** issued by the **Department of Transportation**, or a **school record for proof of the minor's age**.
- REQUIRED:** The minor's **Social Security card for proof of Social Security number**. If the minor's Social Security card is lost, then the Social Security number **MUST** be verified by contacting a Social Security representative. To do that, the minor and/or the minor's parent, guardian, or court-ordered foster parent must go to the Lancaster Office of Social Security and request a replacement card. The Social Security Representative will provide you with a print out verifying the minor's social security number.
- REQUIRED:** Completion on this form of the employer information below; or a letter from the employer containing the employer's name, address, telephone number, and signature, along with a statement of the intent to employ the minor, the job title, the job duties, the days of work, and the approximate number of hours of work per week.
- REQUIRED:** The signature below of the minor's parent, guardian, or court-ordered foster parent; or a letter from the minor's parent, guardian, or court-ordered foster parent giving consent for the minor to accept the employment being offered by the employer.
- REQUIRED:** Payment *from the employer* of **\$10.00** for the work permit fee. If the permit fee is paid by the minor rather than the employer, then the employer shall reimburse the minor for the permit fee no later than the first pay check issued to the minor.

EMPLOYER MUST COMPLETE THIS SECTION – WORK PERMIT REQUIRED INFORMATION

| | | |
|---|--|--------------------------------------|
| Employer Name | | Today's Date |
| Employer Mailing Address/City/State/Zip | | |
| Employer Telephone Number | Employer Fax Number | |
| Printed Name of Minor Being Hired | Date Minor Will Begin Employment | |
| Title of the Job Minor Will Be Performing | Approximate Number of Hours Per Week Minor Will Be Working | |
| Days of the Week Minor Will Be Working Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday <input type="checkbox"/> Sunday <input type="checkbox"/> | | |
| Provide a Brief Description of Job Duties: | | |
| Printed Name of Employer Representative | | Signature of Employer Representative |

PARENT OR GUARDIAN MUST COMPLETE THIS SECTION – REQUIRED INFORMATION

| | | |
|--|--|---|
| Name and Address of School that the Minor is Attending | | |
| Do Parents Own this Business? Yes <input type="checkbox"/> No <input type="checkbox"/> | Is the Minor a H.S. Graduate? Yes <input type="checkbox"/> No <input type="checkbox"/> | Is the Work Being Performed as Restitution? Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Printed name of Parent, Guardian, or Court-Ordered Foster Parent | Signature of Parent, Guardian, or Court-Ordered Foster Parent I give my permission for the minor whose name is listed above to accept the work that is described above. | |

Employee Terminations 101: Firing Legally and Fairly

February 5, 2020



NFIB Small Business Legal Center

- We are the voice for small business in the courts and the legal resource for small business owners nationwide.
- While the information provided in this presentation is intended to be accurate, it should not be considered legal advice. The Legal Center cannot be held responsible for any errors or omissions.



Four Truths about Employment Law

1. Juries care about fairness, not legality.
2. Juries favor employees.
3. Juries always give employees the benefit of the doubt.
4. The government is not neutral.

Millionaire Question

What percentage of jurors would try to return a verdict for an employee who is unfairly treated yet no law has been broken?

- 10%
- 35%
- 51%
- 68%



At-Will Employment

Employment relationships generally fall into two categories:

- Contractual – termination must be handled per terms of contract
- “at-will” – employment may be terminated by employee or employer at any time and for any reason, except an illegal one

Laws that Protect Employees

- Title VII of the Civil Rights Act of 1964 (Title VII): Prohibits discrimination/harassment based on race, color, religion, genetic information, and national origin
- Americans with Disabilities Act (ADA): Prohibits discrimination against qualified individuals with disabilities
- Pregnancy Discrimination Act (PDA): Prohibits discrimination against employees based on pregnancy, childbirth, or related medical conditions

Laws that Protect Employees

- Occupational Safety and Health Act (OSH Act):
Makes it illegal to fire someone in retaliation for reporting safety/health violations or participating in an investigation
- Fair Labor Standards Act (FLSA): Prohibits retaliation against employees who complain of FLSA violations or participate in investigations
- Age Discrimination in Employment Act (ADEA):
Prohibits age discrimination against individuals 40 years of age or older

Termination of Employment

- Can be initiated by the employee (resignation) or the employer (dismissal/termination)
- Employer initiated in cases of:
 - unacceptable job performance,
 - misconduct, or
 - economic reasons (budget cutbacks, reorganization, downsizing)
- *Focusing today on employer-initiated terminations*

Legal Reasons to Terminate An Employee

- Poor performance
- Policy violation
- Failure to meet eligibility requirements
- Failure to meet job qualifications
- Layoff or elimination of position

Discipline and Documentation Process

A discipline process:

- lays the groundwork for fair and legal firings
- puts the employee on notice of the problem and potential consequences

Documentation:

- records the problem and actions taken, especially if termination is the last resort
- Should be complete and thorough

Progressive Discipline

Most employers follow progressive discipline.
For example, an employee may get:

1. A verbal warning for first offense
2. A written warning if the problem continues
3. A final written warning
4. Termination as a last step

How to Document Discipline

For complete and effective documentation, be sure to cover all the following elements:

- The facts, including details like the date, time, and location of the problem
- The specific rule or standard violated
- Objectives for improvement – what you expect the employee to do to correct the problem

How to Document Discipline (cont.)

- Suggestions for meeting objectives: What you agree to do to help the employee meet the objectives.
- Consequences: The action you will take if the employee fails to meet the stated objective
- Signatures and dates: You and the employee should both sign

Termination Checklist

- Was the employee informed of required standards of performance and conduct and the consequences of not meeting those standards?
- Was a proper investigation conducted -- did the employee have an adequate opportunity to tell his or her side of the story?
- Was the employee given adequate counseling or training and opportunity to correct the problem?
- Is the employee's employment history as documented consistent with discharge?

Termination Checklist

- Have performance standards, work rules and disciplinary procedures been applied consistently?
- Do the facts make clear that the employee is not being discharged because of his or her race, sex, religion, age, national origin, disability or other improper reason?
- Is discharge the appropriate penalty?
- Was a proper termination interview conducted and complete documentation prepared?
 - ☐ In person, professional, private & witnessed
 - ☐ Keep short & avoid confrontation

Common Errors in Termination of Employment

Error #1– Terminating the employee on the spot

- Do not act out of anger, frustration or impulse
- It is not recommended to terminate an employee on the spot.
- **INSTEAD** - Suspend the employee effective immediately, pending a review of the situation

Common Errors in Termination of Employment

Error #2 – Lack of documentation to support the decision

- Do not construct documentation after the fact
- **INSTEAD** – document all through the employment relationship, in the normal course of business.
- **REMEMBER** – if it's not documented, it didn't happen!

Common Errors in Termination of Employment

Error #3 – Losing control of the termination meeting

- The emotions of the situation take over the meeting
- **INSTEAD:** Prepare the manager for the meeting. Know what needs to be communicated to the employee and keep the meeting on track

Unemployment Compensation

- Financial Eligibility rules vary from state to state.
- Usually based on working at least so many weeks in a certain time period.
- Find links to your state's unemployment agency at the [U.S. Department of Labor](#) Web site.



Unemployment Compensation

Generally eligible if:

- Laid off due to lack of work.
- Terminated for work related issue that do not rise to the level of "misconduct."

Generally ineligible if:

- Voluntary quit.
- Terminated for work related misconduct.

Unemployment Compensation

- Generally ineligible if employee voluntarily quit without good cause.
- Burden of proof on employee to prove good cause.



Unemployment Compensation

- Not the same thing as “poor performance.”
 - Termination for poor performance will not usually disqualify.
 - Must be a violation of a uniformly enforced company policy



Termination Scenario #1

An employee has begun to perform erratically and is suspected of having a problem with drugs. What can you say to him about it? The performance problem becomes more serious, possibly justifying termination. Should you terminate outright?

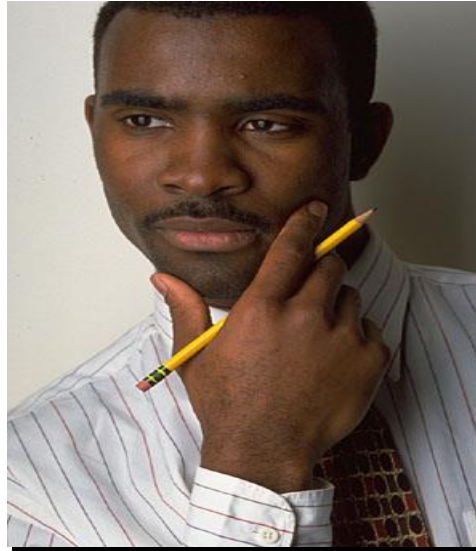
Termination Scenario #2

Your company terminates an employee for being unproductive and abrasive. A few days later you receive a phone call from the owner of another business in town who asks you for a candid reference on the terminated employee. What can you say? Suppose the employee's attorney calls, threatens litigation, and asks for a reference as part of the settlement? Suppose the employee assaulted a co-worker?

Remember . . .

- Nip problems in the bud – act quickly
- Be consistent
- Ensure fairness
- Be aware of laws, policies, procedures affecting decision

Questions?



THANK YOU!

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Thank you!

