

Terminating Employment

As stated in a prior article, all employees of the church are employees-at-will, and either the employee or the church can terminate the employment relationship at any given time, for any reason NOT prohibited by law. Authorized ministers' service under a Letter of Call is subject to the terms of the letter and the constitution of your church.

However, one of the most common causes of employment litigation is a bad termination whether initiated by the church "with cause" or a "voluntary resignation" by the employee. While these may be difficult and highly emotional events, they must be handled dispassionately and strictly by the rules. Three things are of utmost importance:

- Never permit one person authority to terminate another employee. Get legal or human relations professional advice before terminating an employee "for cause" whether it is for performance, attendance, or insubordination.
- Antidiscrimination laws, both federal and state, protect an employee from being fired because of any discriminatory reason such as their race, ethnic background, religion, sex, age, or disability. If a court finds the church guilty of a discriminatory firing, the church may be ordered to pay the employee back pay and damages. In some cases, the courts have ruled that these employees win reinstatement to their former job positions.
- In Pennsylvania, employers can also be found liable for "wrongful discharge" if the firing violates public policy. Under the public policy exception to the employment-at-will doctrine, the courts have held that an employer cannot require an employee to commit a crime, cannot prevent an employee from obeying the law, and cannot fire an employee if a law forbids the firing. For instance, Pennsylvania courts have found public policy violations where an employer fired an employee for serving on jury duty.

It is good policy to spell out in your employee manual certain things like what constitutes abandonment of a position and therefore a voluntary resignation, what are reasons for discharge of a position, and if severance pay would or would not come in to play for a terminated employee. An explanation of what would be the terms if a staff's position would be reduced or discontinued should also be included.

When an employee leaves the employment of the church, many actions that were done in the hiring process need to be reversed. For example, you may need to change signature cards at the bank, collect credit cards that were issued in their name, and remove their name from pertinent information.

How long employee records must be kept

Most authorities specify that employee records for a church must be kept on all current and former employees for at least three years. It is good practice, however, to keep all records on current staff for the entire time they are employed until at least 3 years after their departure.

If you have any suggestions or questions for an upcoming article, please contact Tammie Wisniewski at tammie@psec.org or call the conference office at 484-949-8774 X304