

10 Practical Employer Questions For Employment Ending Situations

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The following are 10 practical risk management questions for an employer to consider when evaluating whether to end (terminate) an employment relationship, and when an employee decides to leave voluntarily:

1. Is there a need for additional evaluation or investigation of the situation or past occurrences? Is this a situation of conflicting information and events, or are they sufficiently clear?
2. Is the employee an at-will employee?

Is there anything that might indicate that the employee is not an at-will employee, such as a written agreement, collective bargaining agreement, employer practice, employer policy, or an oral statement or representation?
3. Is there anything that might indicate that this could be an employee whistleblower, reporting or accusation type situation?
4. Is there anything that might indicate an employer responsibility to evaluate (the interactive process) or provide a reasonable accommodation under the FEHA or the ADA?
5. Is there anything that might indicate the presence of other potentially special situations, such as situations involving issues of race, religion, gender, sexual orientation, national origin, harassment of any kind, pregnancy, family leave, others, etc.
6. Is there documentation and corroboration, or is there a need for documentation and corroboration, of events, occurrences or investigations?
7. Is there any need, or additional need, for evaluation or consideration of the situation by some other person within the organization, or legal counsel?
8. If the employee is leaving voluntarily, have you asked the employee, and documented (with corroboration) why he or she is leaving?
9. If you are ending (terminating) the employment relationship, are you firing or laying off the employee?
10. Have you followed, and continue to follow, the employer's policies and procedures for this situation, including, but not limited to arranging for final pay, and securing the workplace, assets and information?

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