I had an interesting conversation last week with a small business CEO who made the comment that what we hear on TV shows, media outlets, and even in political conversations about “firing” an employee, really can be troublesome in business management because if not done properly it can “backfire”. That is a great comment and a good idea for a topic for a business column. So let’s consider some thoughts about this topic.

While carefully selecting employees can help prevent human resources issues, your small business might still find it has hired a staff member who isn’t a good fit. A number of issues may justify termination of an employee, for example:

- Sub-par performance
- Disruptive or abusive behavior
- Repetitive tardiness
- Excessive or unapproved absences
- Dishonesty
- Theft

The issue for management is what to do about it. In some circumstances, a warning, coaching, or amended responsibilities might correct the problem. Depending on the nature of the issue, however, you may find the best course of action is to part ways. Keeping employees on the payroll when they’re not measuring up to expectations could thwart your business’s growth, create a stressful working environment, and do permanent damage to your reputation.

In most states, an employee may be fired “at will”—at any time for any or no reason. However, there are limits and exceptions. For example, federal law prohibits employers from terminating employees for reasons of race, gender, age, religion, or a disability. Nor can you legally fire employees for complaining about illegal activities, health and safety violations, or discrimination and harassment in the workplace. Other exceptions may exist in your state as well.

According to SCORE mentor and human resources expert John Wojtecki, “Documentation is imperative. One must be consistent to document behavior, action, and results. Are there witnesses? Has there been a performance improvement plan developed and communicated to the employee? Make sure to have the employee sign
that the plan has been communicated. It is always good to review with an attorney prior to the termination.”

If you believe you need—and have legal grounds—to fire an employee, document your reasons, all incidents that demonstrate them, and disciplinary measures (if any) prior to the termination. Having this information on record will give the employee an understanding of your decision, and it can help protect you against any claims of discrimination.

Plan to break the difficult news to the employee in a private setting with a witness present to observe the conversation. If you have concerns about the employee becoming violent, consider having security personnel nearby.

“In breaking the news to the employee, one should be straight and to the point,” suggests Wojtecki. “There should always be a witness to the discussion. Upon termination, the employee should be escorted to their workstation to collect their possessions, and escorted to the exit.”

Either during the meeting or in follow-up to it, you are required to inform the employee of eligibility for unemployment and any applicable optional continuation of benefits (such as health insurance). Also address any entitlement to accrued vacation pay or sick leave, outstanding commissions and bonuses, and not-yet-reimbursed company expenses.

Because of the potential legal ramifications when terminating an employee, make sure you do your research and consider consulting a human resources professional or attorney who can guide you. Also consider reaching out to your local SCORE chapter to talk with a mentor who can offer input, feedback, and guide you to knowledgeable resources within your community.

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