



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Get Help Before Terminating Employees! Reducing Your Organization's Risks

An employee is performing poorly . . . one of your employees is refusing to perform certain tasks . . . an employee violates organizational policy . . . **WHAT DO YOU DO?**

Prior to taking action to terminate employment, you need to ensure that you have fully addressed and documented the issues you are having with the employee, and that you consult with counsel to ensure that you have minimized the risk of a lawsuit being filed against your organization.

1. **BE HONEST:** Performance reviews and other performance-related documents must have accurate and factual information to be effective. It is not always easy to talk to employees about deficiencies in their performance, but if you fail to do so, your own documentation may contradict the reasons you want to terminate an employee later, and provide evidence that could support a claim of discrimination against the organization.
2. **FOLLOW ORGANIZATIONAL POLICIES:** Check your progressive discipline policy, and follow it (if you don't have one, get help from Pro Bono Partnership or your legal counsel to adopt one). Be consistent with all employees. It is important to warn employees of the potential consequences of their actions at the time discipline is imposed, and to give them an opportunity to correct their behavior. If your policy contains a process for increasingly serious warnings before termination, issue each warning, with the caution to the employee every time that further violations of policy or failure to modify behavior may result in termination of employment. Allow an employee sufficient time to improve, and then, if there is no improvement, continue to increase the seriousness of the discipline, until you exhaust disciplinary avenues. Always review the facts of the specific situation and its seriousness to determine if any steps of your progressive discipline process can or should be bypassed. There are situations where it is not appropriate to follow every step of progressive discipline before terminating, such as a serious policy violation.
3. **DOCUMENT** all steps you take: Even a verbal warning should be documented, and the employee should be provided with an opportunity to sign, and comment on the discipline. If the employee refuses to sign, it should be noted on the document that it was reviewed with the employee with the date, and that the

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employee refused to sign it. Keep all performance reviews and records of disciplinary action taken with regard to all employees. Keep any and all supporting documentation that exists.

4. **GET HELP BEFORE TERMINATING:** Call Pro Bono Partnership or your legal counsel if you are contemplating terminating employment. An attorney can review your documentation, the facts of the situation, help you to assess the risks involved, and inform you if additional actions should be taken prior to termination. Terminating an employee before you consult with an attorney can lead to unnecessary risks and litigation for your organization.

For more information about employee terminations, please see Best Practices for Disciplining or Terminating the Nonprofit Employee, at this link on our website: <http://www.pbpatl.org/wp-content/uploads/2011/12/EmployeeDisciplineandTerminationRevised11.pdf>.

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