

“Toxic” Employees: A Guide to Managing/Firing Difficult Employees



How to Fire/Manage a Toxic Employee Guide

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How to Deal with a Toxic Employee

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Every manager has had to cope with a toxic employee at one time or another. These are workers who just don't fit with the culture of your organization, or who can't prevent their own emotional baggage from spilling over into their professional lives. These employees can be a problem, not necessarily because of poor performance, but because their toxic attitude has an impact on their co-workers. Like a disease, a toxic worker can infect your employees, their productivity, and eventually your entire organization. Negative attitudes can spread like a virus, affecting other workers who lack the fortitude or understanding to see what is happening to them. The toxic employee spreads dissent and others become victims of the virus because they can't discriminate between antagonism and negative criticism. Ultimately, toxic employees can undermine any team efforts that are essential to company growth.

Why do companies continue to employ toxic workers? Usually it's because of fear; fear of repercussions, or fear of promoting greater unrest in the ranks by firing the troublemaker. Sometimes the employee happens to be a top producer, and the profits they bring the company are thought to outweigh the negative effect of their attitude. There are a number of ways to deal with toxic employees. First, you can try to address their toxicity and see if they can be sufficiently cured of their negative attitude to become a constructive member of the team. If that fails, you should safely excise a toxic employee; but to do this with no real repercussions, you must understand the risks and use the right procedures to protect yourself.

Identifying Toxic Behavior

First, you have to be able to spot a problem employee and understand what makes them toxic. Here are some of the most common toxic traits to look for:

- **A general negative attitude.** Unhappy employees exude negativity, and many times you can't correct the situation to make them happy. Such workers are often quick to anger, don't want to work, and take their dissatisfaction out on their coworkers. They use no discretion about where, when, or to whom they voice their opinions.
- **Unwillingness to take responsibility.** Every problem or criticism is someone else's fault and these self-proclaimed victims often turn to backstabbing and blaming others.
- **Gossip.** Gossiping workers tend to create cliques and form groups that promote an "us versus them" environment.
- **Sabotage and insubordination.** These toxic employees go to the next level, trying to build themselves up by deliberately making their coworkers, and even the company, look bad.
- **Clock watchers.** Workers who waste their work hours shopping online, emailing friends, surfing the web, hanging out on Facebook, or finding other ways to occupy company time without being productive undermine productivity.

- **Unprofessional and inappropriate communications.** Workers who use the company email system to send snarky messages to forward off-color/inappropriate jokes, or workers who engage in loud phone calls that include personal details can be a huge distraction to productive employees, or worse - a harassment claim in the making.
- **Bullying and harassing coworkers.** These corporate bullies will highlight other people's mistakes in very public forums, pointing to others as examples of "what not to do" in inappropriate and embarrassing ways.
- **Inappropriate use of social media.** This is a new arena that is causing chaos within companies. When employees become "Facebook friends" with colleagues and bosses they often they let things slip online that are hurtful and negative, such as Tweeting about the boring sales presentation they have to sit through when the sales manager or CEO is a Twitter follower. Much of this toxicity can be removed with education, but be wary of repeat offenders.

Once you have identified the toxic employees, how do you handle them? First consider the potential ramifications, and then deal directly with the problem.

Laying the Proper Groundwork

Many executives are afraid of confronting a toxic employee for any number of reasons:

1. **Managers feel they are over a barrel.** If the employee leaves then they will take vital knowledge with them, sales will go down, or the company will risk losing important business or clients.
2. **Fear of being sued, or having a discrimination claim filed against them.** This toxic employee knows where the potential corporate skeletons reside and will do whatever they can to expose the company in a litigious way.
3. **Loss of investment.** This employee has taken years to train and the employer doesn't feel they can afford to lose their skills.
4. **Personal attachment.** Managers are attached to the toxic employee on a personal level, even if they aren't a good cultural fit.
5. **Fear of competition.** Key employees could steal clients and staff, or in some cases start their own company after they leave.

These are valid concerns, but it is important to understand that the negative impact of a truly toxic employee can become a serious and expensive problem for the entire company. The sooner you address the problem, the better. Sometimes the employee can be corrected and brought into line, and sometimes they can't. If they can't, the employer needs to decide how and when to end the relationship.

Using "At-Will" Employment with Caution

In California (or other states that honor "at will" employment), employers sometimes choose to separate with their toxic employees using this clause as their exit strategy, often to avoid the hassle of building a case for "just cause". There are times when this works, and times it could prove to be a disaster.

Under the terms of "at will" employment, any hiring is presumed to be 'at will'; that is, the employer is free to discharge individuals 'with or without cause,' and the employee is equally free to quit, strike, or otherwise cease work. This clause should not be used as a substitute for responsibly managing those you have hired and giving them an opportunity to succeed. However, it can be a quick and clean way to separate from an employee who was clearly a bad hire to begin with, has a relatively short history with the company, and who doesn't have any other high risk factors attached to them.

Unfortunately, the “toxic” employee is often a typical high-risk termination by nature, so you need to assess the risks carefully before making a decision about whether or not to terminate for cause:

- Is the employee in a “protected class” (e.g. over 40 years of age, a minority ethnicity, mentally or physically handicapped), and might they make a claim that they are being discriminated against because of that distinction?
- Has the employee ever indicated that they may have a medical condition that would affect their job performance or even work attitude?
- Has the employee indicated that they have been subjected to a hostile work environment?
- Is the employee improperly classified (exempt vs. non-exempt)?

If the answer to any of these questions is “yes”, or even “maybe”, the employer should proceed with caution AND legal counsel before terminating the employee.

Of course, employers should always maintain a professional demeanor in dealing with all workers, toxic and otherwise, to avoid charges of misconduct or creating a hostile environment later on. Be wary of miscommunications, such as “joking” comments that could be perceived as malicious or aggressive communications caused by frustration. Be careful of how you communicate in writing, such as email or text messages. In addition, be wary of the behavior of other employees. The business owner is ultimately responsible for the conduct of everyone on the company’s payroll.

Addressing Toxic Behavior

Once it is clear you are on firm ground and that the toxic employee has to change his or her behavior or leave the company, it’s time to take action. Create an established protocol to deal with problem employees so that you have a consistent policy and procedure in place to not appear bias or unfair. Then apply the following process to deal with a problem employee:

1. **Be sure of your position before you start.** Understand your risks and what has been documented, and what the specific reasons are for potential termination. In most cases, it’s a case of toxic attitude, but make sure you aren’t leaving yourself exposed to a possible legal action.
2. **Schedule a meeting with the toxic worker to review the specific behavioral problem.** Whatever you do, don’t have this meeting alone with the problem employee. Have a witness in the room who can verify what is said and by whom. You want the meeting to be in private and discrete, but you also need to cover yourself in the event of repercussions later. That’s why you need to come with documents that will need to be signed at the end of the meeting.
3. **Outline the problem in explicit, specific terms.** Don’t use vague accusations such as “you’re creating a problem.” Instead, use specific examples of inappropriate behavior, such as, “you called Wendy stupid in a staff meeting,” or “you yelled at Steve in front of a client,” or “your personal conversations are disrupting other employees from doing their jobs.” You need to be specific so you can ask for remediation and create a foundation from which you can assess any change in behavior.
4. **Is this the first time you have had to address this particular problem?** If it is, then chances are good that the offending employee will express shock and dismay and become very defensive. He or she will probably point out his or her accomplishments for the company. Be sure to differentiate that this is not about job performance but work attitude.

5. **Don't be defensive.** All too often, managers or business owners become too concerned with others' reactions or feelings and they try to defend their own actions. Don't be defensive because you have nothing to be defensive about. Restate the problem and the expectation of changes to be made.
6. **Document it.** Prepare a written synopsis of the meeting and its outcome. Be sure to outline what the employee has done wrong, what changes are expected in their behavior, how performance will be measured, and what the consequences will be if there is not a noticeable improvement.
7. **Schedule follow-up meetings.** Be sure to hold series of meetings at regular intervals to review the employee's progress. Be sure you have your witness present at these meetings and refer back to the previous discussions to assess changes in attitude and behavior.
8. **Be prepared to acknowledge improvements.** For example, if you set a deadline of 30 days to show positive change and the employee demonstrates that change, then acknowledge it. If the employee has successfully modified his or her behavior as requested, and yet you still terminate them, it's just a lawsuit waiting to happen.
9. **If there is no positive change, terminate the employee immediately.** At the end of the probation period fire the employee; don't delay even a day. In addition, be sure to terminate that employee in a straightforward manner. Reiterate that the employee has been on probation, and that he or she failed to accomplish the promised changes (and be sure to present the documentation as proof), therefore it is his or her last day.
10. **Get them to leave immediately.** Ask if they need help packing their belongings but don't hover around them unless there is a perceived risk. However, make it clear that they leave right away.
11. **Communicate to the rest of the company as soon as the toxic employee is gone.** Don't leave people guessing or speculating. Be positive and clear about what transpired, and don't criticize the absent worker's performance in any way; that could leave you open to legal action. Try something like this, "This is John's last day. We wish him well in his new endeavors and will be seeking a replacement for his position. In the meantime, we would like you all to pitch in to cover John's responsibilities."

Remember that no matter what reservations you might have, a toxic employee will eventually become a problem for the entire company; allowing the behavior to continue unchecked will not only affect company culture and morale, but could turn into a much larger issue with a significant impact on your bottom line. Try to correct the situation if you can, but don't hesitate to remove the source of the problem. The longer you keep a toxic employee on the payroll unchecked, the harder it will be to undo the damage they can cause and get your company back on track to productivity and profitability.

Do Your Policies & Procedures Prevent Your Company From Growing

Are you interested in growing your business while enhancing your employee's ability to deliver consistent, high caliber service without dramatically increasing the burden of employee management responsibilities on you? If so, we recommend you take several minutes to read on and acquaint yourself with the importance and benefits of written, well-defined Policies & Procedures!

Policies and Procedures are the strategic link between the Company's vision, and its day-to-day operations. So why is this important to you? Simply put, well-written policies & procedures allow employees to clearly understand their roles and responsibilities within predefined limits. Basically, policies & procedures allow management to guide operations without constant management intervention. And constant intervention equates to increase operating expenses that ultimately detract from your company's profitability. So ask yourself...What condition are my company's written policies and procedures in? Oh, you say you don't have written policies and procedures. Fear not, it's never too late to take advantage of tools and techniques many of your competitors have, and are using successfully to grow their business and market share.

In order to understand why policies & procedures are so important we need to know what they are, and the differences between them. A 'Policy' is a predetermined course of action, which is established to provide a guide toward accepted business strategies and objectives. In other words, it is a direct link between an organization's 'Vision' and their day-to-day operations. Policies identify the key activities and provide a general strategy to decision-makers on how to handle issues as they arise. This is accomplished by providing the reader with limits and a choice of alternatives that can be used to 'guide' their decision making process as they attempt to overcome problems. I like to think of 'policies' as a globe where national boundaries, oceans, mountain ranges and other major features are easily identified. With that concept in mind let's take about procedures.

The ultimate goal of every 'Procedure' is to provide the reader with a clear and easily understood plan of action required to carry out or implement a policy. A well-written procedure will also help eliminate common misunderstandings by identifying job responsibilities and establishing boundaries for the jobholders. Good procedures actually allow managers to control events in advance and prevent the organization (and employees) from making costly mistakes. You can think of a procedure as a road map where the trip details are highlighted in order to prevent a person from getting lost or 'wandering' off an acceptable path identified by the company's management team.

Major Differences Between Policies & Procedures

Policies:

- Are general in nature
- Identify company rules
- Explain why they exist
- Tells when the rule applies
- Describes who it covers
- Shows how the rule is enforced
- Describes the consequences
- Are normally described using simple sentences & paragraphs

Procedures:

- Identify specific actions
- Explain when to take actions
- Describes alternatives
- Shows emergency procedures

- Includes warning & cautions
- Gives examples
- Shows how to complete forms
- Are normally written using an outline format

Policies & procedures are required when there is a need for consistency in your day-to-day operational activities. Policies and procedures also provide clarity to the reader when dealing with accountability issues or activities that are of critical importance to the company, such as, health & safety, legal liabilities, regulatory requirements or issues that have serious consequences.

If your organization already has established Policies & Procedures, how can you determine if they are meeting your needs?

- A few 'Critical' signs that your policies and procedures need to be reviewed and updated would include:
 - ✓ An increase in the number of accidents, higher failure rates or costly overruns.
- The workforce can also provide important clues that your company's policies and procedures need to be reviewed. These clues could include:
 - ✓ More staff questions on 'normal operations' or a feeling of general confusion within a department or division.
 - ✓ Employees may also be demonstrating inconsistency in their job performance and there may be an increase in the workforce's stress levels.
- Finally, your customers may provide additional clues in the form of increasing complaints.

Major Benefits Policies & Procedures Provide

Now that we have a better understanding of policies & procedures, let's take a look at the major benefits they provide.

- First, employees are provided with information that allows them freedom to carry out their job and make decisions within defined boundaries.
- Second, employees understand the constraints of their job without using a 'trial and error' approach, as key points are visible in well-written policies and procedures.
- Third, policies & procedures enable the workforce to clearly understand individual & team responsibilities, thus saving time and resources. Everyone is working off the same page; employees can get the "official" word on how they should go about their tasks quickly and easily.
- Fourth, clearly written policies & procedures allow managers to exercise control by exception rather than 'micro-manage' their staff.
- Fifth, they send a "We Care!" message. 'The company wants us to be successful at our jobs.'
- Sixth, clearly written policies & procedures provide legal protection. Juries apply the 'common person' standard. If written clearly so that outsiders understand, the company has better legal footing if challenged in court.

Let's return to the first question we asked. Are you interested in growing your business without dramatically increasing your burden of employee management responsibilities? If your answer is yes, we recommend reviewing and implementing Policies & Procedures that are effective, and work on your company's behalf.

STANDARD JOB DESCRIPTION (TEMPLATE)

Position Title:

Reports to:
 Updated:
 Position Type:
 Classification:
 Work Location:

Position Summary:

Hours:

Qualifications:

Essential Job Functions

Area	Responsibility	Satisfactory Performance Metrics
	▪	▪
	▪	▪
	▪	
	▪	▪
	▪	▪

Statement of the Position Holder:

I accept the accountabilities of this position and agree to produce the results, perform the work, and meet the standards set forth in this position agreement.

Signature: _____

Date: _____

Printed Name: _____

Statement of the Position Holder's Manager:

I agree to provide a working environment, necessary resources, and appropriate training to enable the accountabilities of this position (results, work, standards) to be accomplished.

Signature: _____

Date: _____

Printed Name: _____

New Hire To Do Checklist

New Employee:

Position:

Start Date:

BEFORE START DATE

ITEM	RESPONSIBLE	DATE DONE
Create server-based New Employee File		
Prepare New Hire Packet		
Create First Quarter Goals & Objectives		
Create Paper-based New Employee File		
Create IT email, password and other accounts as needed		
Review/train employee on general system and software		
Assign work area/desk		
New Hire IT Check List		
Equipment requisition/purchase/set-up:		
Computer		
Create/Verify telephone extension		
Update Phone System Directory w/ Employee's Name		
Print Telephone System Quick Reference Guide		
Update and redistribute telephone extensions list		
Create Inbox (mailbox label)		
Business Cards		
Other equipment [specify] General desk supplies		
Copy Company keys, create access card and/or alarm code		
Add new hire into the Employee Data xls		
Enter new hire's birthdate on the calendar		
Enter Hire Date & 1 Yr Anniversary to Calendar		

START DATE / ORIENTATION

ITEM	RESPONSIBLE	DATE GIVEN	DATE REC'D	INITIALED
Offer Letter & Resume for personnel file				
Review Job Description with employee				

ITEM	RESPONSIBLE	DATE GIVEN	DATE REC'D	INITIALED
Review first quarter goals and objectives with employee				
INS Form I-9 (Employment Eligibility)				
Employee Information Sheet				
Confidentiality Agreement				
IRS Form W-4 (Tax Withholding)				
Automatic Payroll Deposit Authorization				
Review timesheet procedure and payroll calendar				
Workers' Compensation Information				
Personal Physician Designation Form				
Form DE2320, Unemployment (For Your Benefit) Pamphlet				
Form DFEH 185, Sexual Harassment Pamphlet				
Create Employee handbook at Kinkos				
Assign Employee Handbook / Acknowledgement				
Co-worker introductions				
Office tour: work area, printer, fax, shredder, kitchen, bathrooms, postage, etc.				
Instructions on obtaining Company supplies				
Train on network login, and email ID				
Train on telephones, voicemail, and password				
Assign access key/card, and train on alarm/entry system				
Safety Training (location of first aid kit, emergency exits, fire alarms, fire extinguishers, special emergency procedures)				
Review safety training materials (earthquake)				
Add to payroll, Worker's Comp Sheet				
File DE-34 with EDD				
File orientation documents				

BENEFITS ORIENTATION CHECKLIST

Healthcare Benefits begin:

ITEM	RESPONSIBLE	DATE GIVEN	DATE REC'D	INITIALED
Health Insurance Information and Enrollment				

Forms				
Initial Notice of COBRA Rights				
Retirement Plan Information and Enrollment Forms (given the October before eligibility date)				
Other benefit enrollment forms [specify]				
Review Vacation ~ PTO ~ UTO ~ Bereavement electronic form				
Explain other benefit [specify]				
Benefits orientation checklist sign off				
Add to health insurance (thirty days after their date of hire, on the first day of the new month)				
Add to retirement plan (first day of the quarter beginning after your one-year anniversary date)				

ADMINISTRATIVE / TECHNOLOGY

ITEM	RESPONSIBLE	DATE GIVEN	DATE REC'D	INITIALED
Billing to Clients Policy				
Time tracker procedure (billable and non-billable)				
Time discounting procedures				
Creating expense reimbursement reports				
Scanning documents and temp folder policy				
Outlook usage (calendar, e-mail, flags, folders, sharing, etc)				
Vacation/PTO policy and messaging				
Internal software training				
Internal IT procedures				
Internal office procedures				
Kitchen policy				

Annual Performance Evaluation

Employee Name _____ **Job Position** _____
Supervisor Name _____ **Review Period** From (date): _____ To (date): _____

Performance Evaluation Guidelines

An effective Performance Review System will provide input about an employee's job performance, have usefulness as a developmental tool, help establish and clarify performance goals and support the strategic objectives of the Company. Our system is designed to review accomplishments and milestones from review period to review period as well as develop future goals. Please assess the employee's most recent review before you proceed to use achievements as performance measurements and keep SMART (**S**pecific, **M**easurable, **A**ttainable, **R**elevant, and **T**ime-bound) goal-setting parameters in mind.

1. **Problem Solving/Decision Making** – Solves problems with effective solutions; asks good questions and probes appropriate sources for answers; looks beyond the obvious and doesn't stop at the first answers; makes decisions in a timely manner; has a bias for action; solves problems independently whenever appropriate.

Observation/Notes/Comments:

2. **Flexibility/Adaptability** – Deals effectively with change, can function without knowing all of the answers, deals well with unresolved issues, can comfortably handle risk and uncertainty; responds positively and effectively to fluctuations in workload, readily accepts changes to work processes and priorities. Learns quickly when confronting new challenges, experiments to find solutions.

Observation/Notes/Comments:

3. **Communication/Listening** – Relates well to individuals both inside and outside the business, builds and maintains interpersonal rapport and relationships, is diplomatic and tactful, listens well and hears people out, behaves in a manner that makes them easy to approach; keeps his/her composure under stress; consistently demonstrates tolerance with people and processes. Is able to write clearly and concisely to get messages across that meet the intended goal and impact.

Observation/Notes/Comments:

4. Professionalism/Professional Maturity – Accurately appraises own strengths and limitations. Projects poise and confidence in role; acts in an appropriate manner in business situations; steps up to conflicts and sees them as opportunities for improvement. Can find common ground with others and get cooperation. Displays integrity, is widely trusted; is direct and truthful; keeps confidences; doesn't blame others for own mistakes; is open and nonpolitical; does what's best for the organization. Uses discretion with confidential information.

Observation/Notes/Comments:

5. Innovation/Creativity – Develops new and unique ideas; is effective in brainstorming sessions, brings new ideas forward; creates opportunities and overcomes obstacles by rethinking the business; creates new and unique approaches to resolve problems.

Observation/Notes/Comments:

6. Results Orientation – Pursues all tasks with high energy, drive and need to finish; can be counted on to exceed goals successfully; steadfastly pushes self (and others where appropriate) for results; demonstrates a bias for action; gets things done but doesn't lose sight of "how things are done" when moving toward goals. Sets an example of hard work and commitment; displays a sense of enthusiasm and appropriate urgency; uses his/her time effectively and efficiently; sets priorities, prioritizes tasks and focuses time accordingly.

Observation/Notes/Comments:

7. (For Managers) Motivating Employees – Can motivate many kinds of individual and team or project team managers; empowers others; pushes tasks and decisions down; invites input from others and shares ownership and visibility; makes associates feel their work is important; is someone people like working for and with.

Observation/Notes/Comments:

8. **(For Managers) People Development** – Provides challenging and stretching assignments; holds frequent development discussions; is aware of associates' career goals; brings out the best in people; is a people builder. Is seen as a leader; is supportive; is diversity-oriented. Conducts regular, effective employee reviews.

Observation/Notes/Comments:

Overall Performance Summary – At the end of the performance period, comment below on the employee's overall performance in the job against defined goals/objectives and expected behaviors.

Observation/Notes/Comments:

Employee's Comments on the Performance Appraisal –

Reviewed By:

Supervisor's Signature _____ **Date:**

Employee's Signature: _____ **Date:**

Creating & Assigning Effective Employee New Objectives

Policy:

Selecting and stating clear, measurable short-term objectives provides both manager and department member with a focus for moving forward successfully. Effective managers begin planning by selecting and stating the long-range goal and short-term objectives. They then select appropriate materials, strategies and methods, and evaluation techniques to teach and measure the accomplishment of the objectives that lead toward achieving the goals. When department members understand clear and measurable goals and objectives, they become aware of what their manager expects them to accomplish, and how it relates to the overall mission of the Company.

An effective Objectives Creation & Assigning System:

- Provides analysis of an employee's job performance as it relates to specified objectives
- Is useful as a development tool to improve the employees understanding of objectives, and the employees overall performance
- Helps establish and clarify new performance objectives
- Supports the strategic goals of the Company

Ideal system to use:

- To assign **SMART** (**S**pecific, **M**easurable, **A**ttainable, **R**elevant, and **T**ime-bound) objectives for a given period
- To evaluate accomplishments and milestones associated with each assigned objective
- To utilize the evaluation results of the assigned objectives
 - o To create new objectives that enable the employee to move toward achieving specified goals

Procedure:

- 1) Study the employee's most recent past evaluation before creating newly assigned objectives for which the employee will be assigned and evaluated on.
- 2) Use **SMART** (**S**pecific, **M**easurable, **A**chievable, **R**elevant, and **T**ime-bound) objective-setting guidelines when creating newly assigned objectives

Eight Steps in Preparing For Performance Evaluations

1) Review Job Expectations and Requirements

- a) Because the evaluation must be closely tied to the job description, the manager should review the job description
 - i) The job description should clearly reflect the current job being performed
 - ii) An accurate job description will result in a valid appraisal of the employee's performance

2) Review Past and Present Objectives

- a) Review the previous employee objectives evaluation
- b) Additionally review the currently assigned employee objectives that were identified and assigned
 - i) Consider the extent to which the employee has met and or exceeded those objectives during the current review period.

3) Review the Employee's Work History

- a) Review any notes about the employee's work history
 - i) Notes and records from previous reviews, both formal and informal, can make a difference by enabling managers to cite specific incidents and objective results, both positive and negative

4) Evaluate and Rate Job Performance

- a) Be sure to consider all performance during the evaluation period
- b) Do not allow irrelevant factors not related to the job to influence your evaluation, such as unrelated activities outside the office or personal likes/dislikes
- c) Include unfavorable evaluations even though they may be uncomfortable to discuss
- d) Evaluation of employees who perform equally should be similar, but not everyone is likely to be rated alike
 - i) Every group includes better and poorer performers, so evaluations should reflect that distribution of performance
- e) Please utilize the 80% - 20% rule; 80% praise and 20% details that need improvement

5) Provide Specific Examples of Performance

- a) Prepare to talk to the employee in terms of specific incidents, results and observations
 - i) Employees find negative comments that are general in nature difficult to accept
 - ii) Employees find positive comments that are general in nature difficult to understand

6) Consider Growth Opportunities

- a) Where potential for promotion exists within a company, consider in advance the opportunities that may be available to the employee and be prepared to discuss the training, education, or experience necessary to move toward those opportunities

7) Practice

- a) Practice what you are going to say during the evaluation interview until you are comfortable delivering the message
 - i) This is particularly important if the evaluation is unfavorable, for which you should consider and prepare for the employee's possible response

8) Let the Employee Prepare as Well

- a) Set an appointment for the evaluation in advance and provide the employee with a copy of the previously assigned objectives being evaluated
 - i) Encourage the employee to do a self evaluation in advance of the meeting
 - ii) Self-evaluations help employees identify their own weaknesses and prompt discussion during the evaluation meeting

EMPLOYEE PERFORMANCE IMPROVEMENT PLAN

MEMORANDUM

[NOTE: Please be careful to delete the explanatory notes in this form, such as this explanatory note, before using this form for a particular situation]

TO: _____
FROM: _____
DATE: _____
RE: Performance Improvement Plan

I. INTRODUCTION

This Plan addresses certain concerns we have with your performance. It is our hope that you will take the steps outlined herein to improve your performance.

II. CONCERNS

We have outlined below certain specific incidents in which you have demonstrated poor performance/poor behavior. For example:

-
-
-

III. PERFORMANCE OBJECTIVES

To remain employed with the Company, you must strictly comply with the objectives below over the next [insert reasonable period to complete objective, e.g., 60 days]. [We have also included suggestions that we hope will help you achieve these objectives.]

The performance objectives are as follows:

-

[Suggestions:]

-

[Suggestions:]

-

[Suggestions:]

Again, we intend to strictly monitor your performance over the next [60] days for compliance with these objectives. Failure to meet any of these objectives during the [60]-day period could result in disciplinary action, up to and including immediate termination. Further, we expect sustained improvement in your performance. Should you successfully meet your objectives over the next [60] days, followed by a subsequent decline in performance, you may be terminated without further notice and opportunity to improve.

Please note that this document does not change your status as an at-will employee, and even if you successfully meet your objectives over the next [60] days, your at-will status would not change. Since

you are an at-will employee, either you or the company can terminate your employment at any time, with or without cause, for any reason or no reason at all.

IV. YOUR COMMENTS

If you have any comments, please list them below (attach additional sheets if necessary):

[NOTE: WE SUGGEST YOU DELETE THE QUESTION BELOW UNLESS THE EMPLOYEE HAS GIVEN YOU REASON TO THINK SHE MIGHT BE ENTITLED TO A REASONABLE ACCOMMODATION FOR A DISABILITY]

Question 1: Do you need a reasonable accommodation from the company to meet the objectives described in this Performance Improvement Plan or to otherwise perform your job (please check yes or no)?

- Yes
- No

If you checked the “yes” box in response to Question 1, above, please describe the accommodation you need (attach additional sheets if necessary):

If you checked the “yes” box in response to Question 1, above, please explain why you believe you need an accommodation (attach additional sheets if necessary):

[NOTE: WE SUGGEST YOU DELETE THE QUESTION BELOW UNLESS THE EMPLOYEE HAS GIVEN YOU REASON TO THINK SHE MIGHT BE ENTITLED TO A LEAVE OF ABSENCE OR REDUCED WORK SCHEDULE BECAUSE OF A SERIOUS HEALTH CONDITION]

Question 2: Do you believe that you need a leave of absence or a reduction in your working hours on account of any serious health condition you are experiencing (please check yes or no)?

- Yes
- No

If you checked the “yes” box in response to Question 2, please complete the Leave of Absence Request Form that you will be provided.

I have read this Performance Improvement Plan in its entirety.

[Employee]

Date

[Manager]	Date	[HR Rep]	Date
-----------	------	----------	------

EMPLOYEE CORRECTIVE ACTION FORM

Employee Name:			
Job Title:		Department:	
Manager:		Date of Meeting:	
Please select: <input type="checkbox"/> Tardiness <input type="checkbox"/> Quality of Work <input type="checkbox"/> Professionalism	<input type="checkbox"/> Absenteeism <input type="checkbox"/> Insubordination <input type="checkbox"/> Language	<input type="checkbox"/> Policy Infraction <input type="checkbox"/> Safety	
Manager Explanation:			
Action Plan:			
Employee Comments:			
Employee's Signature:		Date:	
Supervisor's Signature:		Date:	

EMPLOYEE CORRECTIVE ACTION FORM - EXAMPLE

Employee Name: Jim Employee		
Job Title:	Department:	
Manager: John Employer	Date of Meeting:	
Please select: <input type="checkbox"/> Tardiness <input type="checkbox"/> Quality of Work <input checked="" type="checkbox"/> Professionalism	<input type="checkbox"/> Absenteeism <input checked="" type="checkbox"/> Insubordination <input type="checkbox"/> Language	<input type="checkbox"/> Policy Infraction <input type="checkbox"/> Safety
Manager Explanation: This is a written corrective action for Jim. It is meant to be informative, allowing him the opportunity to improve and grow in his position, and to give him the opportunity to correct the issues presented here. The following problem areas have been identified by your manager, John: <ul style="list-style-type: none"> • On June 23rd, 26th and 28th, John (Jim's manager) intervened in conversations Jim was having with other staff members in the open work area regarding the performance of another employee. Each time, Jim was asked to stop discussing this subject in the open, and to bring his concerns directly to John. • In the August 3rd staff meeting, all staff was instructed to begin using the new calendar. As Jim left the meeting, he loudly announced that he refused to do so, and that he thought anyone else who did so was "stupid". 		
Action Plan: <ul style="list-style-type: none"> • It is important for Jim exercise discretion and professionalism when communicating with other employees. Any problems with other employees, or with duties assigned to him, need to be brought directly John, without detracting from the duties and/or work environment of others. • Company directives (such as the implementation of the new calendar) are to be followed as a requirement of Jim's employment. While we are open to hearing Jim's reasons for not liking the new system, those reasons should be expressed in a professional and collaborative manner; the final decision will be made by management. • We will meet again on August 25, 2009, to review these items again and determine whether or not there has been improvement. • While we fully expect the problems to be resolved to everyone's satisfaction, failure to comply with the action plan and lack of noticeable improvements may result in termination. 		
Employee Comments:		
Employee's Signature:	Date:	

Supervisor's Signature:	Date:
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Pre - Separation Meeting Checklist

Instructions: Items contained on this list are to be taken into consideration and or completed prior to the separation meeting.

Client Representative & Witness Conducting Separation: _____

Employee: _____ Separation Date: _____

Need to Assign? Y/N	Subject/Task	Assigned To:	Date Assigned:	Date Completed:	Initials
	Security:				
	1) Review with employees manager				
	a) Possibility of employee becoming hostile				
	b) Past signs of anger or emotional instability from employee				
	c) The need to have a security officer present				
	d) The sequence of employee leaving the office/building				
	e) Items employee can take upon separation				
	2) Review with separation meeting witness				
	a) Duties of being a witness				
	b) Client's name and address				
	c) What to do in the event of an emergency				
	i) Call 911 for medical emergency, or hostile employee				
	Information Technology:				
	1) Determine system and data exposure				
	a) Level of employee access				
	b) Internal workstations access				
	c) RDC/External workstations access				
	2) Coordinate with HR, blocking employee access to system				
	a) Obtain and secure data if not on server				
	b) Change login and password to that of designated manager				
	Separation Documents:				
	1) Create file folder with completed separation documents for the employee				
	2) Create client/employee file copy of completed separation documents				
	Post Separation Meeting:				
	1) Update the client/employee file with completed separation documents				
	2) E-mail client/manager with outcome of separation meeting				
	Miscellaneous Items:				
	1) Bring box for employee to place personal items				
	2) Paper clips to connect documents				
	3) Pen for employee to use when signing documents				

Separation/Termination Checklist

Employee: _____

Separation Date: _____

Need to Use? Y/N	FORM	Date Given	Date Rec'd	Date Send/File	Initials /
	Change of Relationship/Status Notice **				/
	"For Your Benefit" Unemployment Insurance Info Pamphlet **				/
	Exit Interview				/
	Outplacement Information				/
	Post-Employment Proprietary Obligations Reminder *				/
	Copy of Original Confidentiality/Proprietary Agreement *				/
	Authorization to Release Personnel Records				/
	Notice of COBRA rights *				/
	HIPAA Document				/
	HIPP Notice *				/
	Other benefits information:*				
	> Investment plan				/
	> Flexible spending account				/
	> Other –				/
	Collection of Property				
	> Office Keys *				/
	> Building Pass				/
	> Parking Pass				/
	> Laptop				/
	> Flash Drive				/
	Severance Check				/
	Release of Claims (Required with Severance Payment)				/
	Final Expense Reimbursement Payment *				/
	Final Expense Reimbursement Payment Release *				/
	Final Healthcare Reimbursement Payment *				/
	Final Healthcare Reimbursement Payment Release *				/
	Final Paycheck (including accrued PTO payout) *				/
	Final Paycheck Calculations/Detail *				/
	Final Check Release *				/

* REQUIRED: all Departing ee's regardless of reason

** REQUIRED: Involuntarily Terminated ee's in addition to * items

I hereby acknowledge that I have received all of the above-checked documents and I have had the opportunity to review the documents and ask a Human Resources representative any questions I have regarding the documents. I understand the contents of each of the documents listed, as well as my responsibility to sign and return all forms to **Human Resources** within 60 days. I understand that failure to return all insurance forms within the 60 day period may result in the loss of my rights to continue my insurance coverage.

Signature: Employee's Name

Date Signed

Employee Termination - Involuntary

Procedure:

Once the HR Consultant (or member of management) and the employee's supervisor have worked together to determine that an employee should be terminated, they will schedule the termination together. The HR Consultant/Management should also work with the supervisor to determine who will be present at the termination meeting (HR Consultant, supervisor, other manager, company president, etc.), and whether it is prudent to arrange for security personnel to be on hand at the time of the meeting. It is a very good idea to have two company representatives at the meeting – one to conduct the termination meeting, and the other to act as a witness – and we strongly recommend that practice.

1. Follow the **Separation Forms Checklist** to create the exit documents package. The checklist is set up so that documents relating to a particular topic are grouped together in the list. Documents not marked with an asterisk (*) should be included in the exit package only when applicable, i.e., an employee who is being separated from the company involuntarily would not receive outplacement information.
2. Prepare two (2) copies of each document. The employee should sign both copies; one is retained by the company, the other is for the employee's files. You can fill in the employee's name and other information as needed. Leave all dates blank for the employee and the person conducting the exit meeting to complete.

Multi-page documents should be stapled, not clipped. Documents which are referenced as an attachment to another document should be stapled. Related documents should be clipped together. (For instance, the **Proprietary Obligations Letter** would have a copy of the **Proprietary Agreement** the employee signed when they were hired stapled to it; the change of status notice would be clipped to the unemployment booklet because they are related.)

3. When providing a **'Release of all Claims'** document to an employee who is 40 years old or over, the employee has 21 days by law to consider the document, and 7 days to revoke their signature after having signed it by the 21st day. When providing the document to an employee who is under 40 years old, the client can dictate the terms of requiring the document to be reviewed and signed no later than 7 days from the day the document was provided. Regardless of age, there can be no duress applied to the employee to sign or not sign the document.

4. Check the EDD website to make sure you have the current version of the DE2320 (the “For Your Benefit” brochure that you are required to give to all terminated employees). You can download and print a copy here: <http://www.edd.ca.gov/uirep/de2320.pdf>

5. A note about COBRA and HIPAA information **for companies under 20**: The insurance carrier is supposed to give this information out to employees. However, it can take four or five weeks by the time you notify the company and the person is taken off insurance and THEN the letters go out informing the ex-employee of their COBRA rights. Health insurance can be a significant consideration - especially to people who have a family or a medical condition, so it's important to give them all the paperwork they need when they are leaving the company. You should instruct them that if something similar comes from the insurance carrier but the carrier's information is different, to follow the carrier's instructions because the exit meeting documents are meant only to provide a sense of what their rights are and aren't meant to be legally binding. Whatever the carrier sends is legally binding and takes precedence over the general information provided at the exit meeting.

6. Be sure to note under “Collection of Property” all items which should be received from the employee during the exit meeting, such as laptop, PDA, uniforms, etc.

7. At the conclusion of the meeting, the HR Consultant/Management should escort the employee to their desk to collect their personal belongings, and escort the employee to the building exit. If an employee has significant personal possessions at their desk, the HR Consultant/Management should inform the employee that the company will be responsible for packing and shipping the items to the employee's home address.

8. Once the exit meeting has finished and the employee has been escorted offsite, the HR Consultant/Management should notify IT with appropriate instructions to forward or cancel the employee's email account, phone extension, cell phone number, pager number, etc.

9. Whoever is responsible for managing benefits should notify all insurance carriers and other benefit providers of the employee's exit date.

10. All documentation supporting the termination should be put into the employee's file.

<<<Company Name>>>
Exit Interview

Employee Name: <<Employee Name>>
Department: N/A
Manager:

Title:
Separation Date:
Length of Employment:

Please indicate which of the following best represents your opinions on each aspect of your employment:
1 = Very Satisfied, 2 = Somewhat Satisfied, 3 = Neutral/No Opinion, 4 = Somewhat Dissatisfied, 5 = Very Dissatisfied

- 1. **Compensation Plan** _____
- 2. **Benefit Package** _____
- 3. **Opportunities for Advancement** _____
- 4. **Your Supervisor(s)** _____
- 5. **Employment Policies** _____
- 6. **Utilization of Your Skills** _____
- 7. **Availability/Accessibility of Management** _____
- 8. **Availability of a Confidential/Accessible Forum for Opinions** _____
- 9. **Your Workload** _____
- 10. **Professional Development** _____
- 11. **Overall Experience** _____

If you chose somewhat or very dissatisfied for any of the above, please explain why and, if applicable, offer suggestions for how you would make an improvement. _____

- 1. What is/are your main reason(s) for leaving? _____

- 2. How would you describe your experience of working here? _____

- 3. What are your opinions regarding our management? _____

- 4. Describe two management or policy-related items you think we do particularly well? _____

5. Please list two management or policy-related items you would change or those we should consider working on. _____

6. Operationally, what are two items you feel we do particularly well? _____

7. Operationally, what are two items you would change, or those we should consider working on?

Additional Comments: _____

Separation Documents Witness Statement

Date:

Re: Employee's Name

Employee has been provided with copies of the attached severance documents as outlined in the Separation Forms Checklist. She/He has refused to sign and or acknowledge receipt of said documents, and has refused to participate in the separation meeting. Prior to His/Her leaving the separation meeting, employee was also provided with:

- Live checks for consisting of:
 - Final compensation payment through Date consisting of
 1. Wages
 2. Accrued but unused PTO buyout
 - Expense Reimbursement Payment
 - November Bonus Payment
- Severance Agreement

Signature: Name
Title

Date

Signature: Name
Title

Date

Notice to Employee of Change in Relationship -EDD

(Termination Notice Pursuant to Provisions of Section 1089 of the California Unemployment Insurance Code)

Employee Name: _____ Social Security # _____

As a result of the recent change in your employment status, you may have the right to file for unemployment insurance benefits with the California Employment Development Department ("EDD"). The pamphlet that you have been given, Form DE2320 entitled "For Your Benefit - California's Programs for the Unemployed" describes California's program for the unemployed. Your eligibility for unemployment benefits will be determined by the EDD. The change of status information below will assist you in filing for unemployment benefits.

Your employment status has changed for the reason checked below. If you apply for Unemployment Insurance benefits, give a copy of this form to the Employment Development Department (EDD).

- Voluntary Resignation, effective ____ / ____ / ____
- Layoff, effective ____ / ____ / ____
- Leave of absence, effective ____ / ____ / ____, with a return to work date of ____ / ____ / ____
- Decrease in work hours and/or wages, effective ____ / ____ / ____
- Demotion, effective ____ / ____ / ____
- Termination, effective ____ / ____ / ____
- Refusal to accept available work, effective ____ / ____ / ____
- Change in status from employee to independent contractor, effective ____ / ____ / ____

Comments:

Copy of EDD Form DE-2320 "For Your Benefit" provided with this Notice. _____

Name: _____ Date: _____

Signed: _____

Notice of Acknowledgement

I have received a copy of this notice on _____

Date

Signed

About Pacific Crest Group

Pacific Crest Group was founded by a team of entrepreneurs with solid experience in accounting, finance, human resources and IT. We've built our business in the San Francisco Bay Area by adding staff with expertise in human resources and employee development, business development, and information technology.

Our services encompass both high level consulting that enables clients to make better decisions and achieve strategic goals, and outsourcing of back-office functions such as bookkeeping, HR, and IT administration that reduce costs and increase performance.

Our Mission

Our mission is to help your business become more successful in your terms. For some clients, this means dramatic financial growth; for others, it's about running more efficiently, or focusing on your customers instead of back-office administration.

PCG approaches financial and business management much like doctors treat patients. Certain circumstances call for the resolution of a specific isolated problem, while others require a more holistic approach that considers many aspects of a business' well being.

We eliminate obstacles to your success—for example, inadequate financial processes or cumbersome IT systems—and to enhance your most valuable resource, the people who work for you.

Beyond our unparalleled competency in accounting and HR, Pacific Crest Group's real strength lies in our ability to recognize organizational needs and opportunities for improvement. We know how to optimize and integrate your financial procedures, computer systems, and human resources matters, such that you can focus on what you do best and grow your business to its full potential.

What Pacific Crest Group's Human Resources Consulting Targets

Pacific Crest Group's consulting services target what is most likely your largest business expense – your employees – with the goal of helping you build the strongest, most productive team possible. From analyzing your compensation structure, to helping develop your leaders, to navigating high-risk situations with problem employees, our consultants work with you in a way that suits you and your business, not just the average business.

- Advanced Leadership Training
- Professional Development for EEs
- Establish Policies & Procedures, Standards for behavior
- Recruiting, Hiring, Terminations
- HR compliance and payroll

For more information about our company, visit our website at: www.pcg-services.com or call us at 415-461-2586 for a consultation.