Termination Checklist – Evaluating the Risk



- Is the reason for the termination clear?
- Are all those that participated in the decision in agreement on the grounds for termination?
- Is there credible documentation and testimonial evidence to support the decision?
- Is the termination consistent with the treatment of others in similar circumstances?
- Has the office's termination policy been followed (see employee handbook)?
- Are there any office policies that may protect the employee against being discharged for the reasons contemplated?
- Is there a progressive discipline policy, and, if so, has it been followed?
- If progressive discipline was not followed, is there a basis for immediate termination?
- Is there documentation to demonstrate compliance with progressive discipline?
- Does the termination violate any state or federal laws that may prohibit termination here?
- Did criticism of the employee start only after the employee raised concerns of discrimination or other unlawful conditions at work?
- Is the reason for termination consistent with problems that have been discussed with the employee in the past?
- Will written performance evaluations or discipline actions support the termination decision?
- Is the decision to terminate consistent with recent treatment of the employee (e.g. asserting poor performance but recently gave a pay raise)?
- Have the employee's explanation of events leading up to the termination been considered, and, if so, is there credible evidence for rejecting the explanation?
- Is the employment relationship likely to be found to be "at will" or could an implied contract not to terminate without cause be inferred?
- Have any oral promises or representations been made to employees suggesting employment for a specified period of time (e.g. as long as their work is good, etc.)?
- How long has the employee worked for the office?
- Is there good cause for the termination?

- Have alternatives to termination been considered and documented?
- Has the employee been given the right to appeal the decision or to have the facts upon which the decision relies be investigated?