



HR Resources

Letting People Go



Loop HR Guides

Letting People Go

Three sections included

1. Terminating employees
2. Conducting exit interviews
3. Legal issues to consider when communicating layoffs

Why?

At Loop Health, we've reviewed proprietary data from nearly 3,000 partners and found that the most successful HRs and recruiters are deeply tactical. These leaders track project management, cost analysis and map people management metrics to business outcomes. We've decided to share these insights with the HR community at large in order to help practitioners go from HR *analyst* to HR *strategist*. **These guides will be useful for new HR associates who are learning about the world of organizational management, as well as HR veterans interested in elevating their game.**

At Loop Health, we're fortunate to work with visionary HRs everyday. Our HR partners work across their organizations to optimize not only hiring, compliance, productivity and retention, but employee experience, leadership, learning, development and more. It's not uncommon for HR to be at the centre of organizational restructures and establishing company values – and these areas are more important than ever for modern companies. Setting expectations and prioritizing areas to focus on has never been more challenging. With these challenges come significant opportunities for HR leaders.

Before we get started

At Loop Health, we're building the easiest-to-use health benefit provider in India. We offer free OPD services for all of our partner companies. Learn more at www.loophealth.com or reach out to our Head of Partnerships, Pranaav Marathe, directly at [+91 99703 58844](tel:+919970358844)

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Letting People Go

Process: Terminating employees

Process Overview

This article addresses the following topics that comprise the process of terminating employees:

- Types of employment.
- Termination compliance.
- How to prepare for termination.
- How to conduct the termination conversation.
- How to respond to typical reactions of a terminated employee.
- Additional considerations (e.g., handling major policy violations, voluntary terminations, etc.).

Types of employment

1. Employment At-Will

- Most states in the US follow the rule of “at will” employment. The employment at-will doctrine gives employers and employees the right to end the employment relationship at any time, with or without reason. **Employers may not base their decision to terminate the working relationship on discriminatory reasons.** The majority of states in the U.S. recognize employment at-will as it relates to employment contracts, both written and implied.

2. Contract and Union Terminations

- **Employees with a written or implied employment agreement or a collective bargaining agreement are exceptions to employment at-will.** An implied employment agreement exists when both the employer and employee mutually agree to terms of employment based on both parties fulfilling their respective obligations. For example, an employee may agree to work for a start-up company for a two-year period, provided the

company pays them a monthly salary and agrees to compensate them accordingly based on the company's exit strategy. Even if this is not a written agreement, it's implied and agreed upon.

- **Employment contracts (written or implied) must be terminated according to the terms and provisions of the employment agreement.** Many employment agreements contain provisions for what constitutes contract termination, including a mandatory notice period for terminating the agreement and specific steps to follow during the contract termination process. Reasons for termination may include: Nonperformance of job duties. Job elimination.
- Layoffs/Reduction in force.
- Misrepresentation.
- Failure to meet contract terms, such as quotas or financial goals.
- Violation of contract terms related to moral turpitude.
- **Termination of an employment contract requires more than simply notifying the employee that they no longer have a job.** Employees whose contracts are terminated are generally entitled to severance pay or other financial consideration, as well as continuation of benefits pursuant to the terms of the contract.
- **Collective Bargaining Agreement.** The termination of employees represented by a labor union and covered by a collective bargaining agreement is different. **Termination of employees under a collective bargaining agreement must be for just cause**, meaning the employer must have a justifiable reason for discharging the employee. A collective bargaining agreement (or labor union contract) contains specific language that addresses termination for just cause.

Termination compliance

Take time to ensure you are abiding by your state laws. Engage an attorney if you are unsure or unclear on a law or requirement. Below are several compliance items to consider when preparing for terminations.

COBRA	<ul style="list-style-type: none">● If the employee is enrolled in a company-sponsored group health insurance program, they may be entitled to continued
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	<p>health insurance coverage in compliance with the Consolidated Omnibus Budget Reconciliation Act (COBRA) or similar state law.</p> <ul style="list-style-type: none"> • For those eligible for COBRA coverage, the HIPAA Certificate of Coverage (COC) must be provided no later than the COBRA election notice (44 days). • If the employee is not eligible for COBRA, the COC must be provided within a reasonable time after coverage ends. Ask your health insurance provider to better ensure your company is in compliance with notice requirements to employees.
<p>Discrimination</p>	<ul style="list-style-type: none"> • In "at will" circumstances, employers may terminate employees for any reason or no reason, with one exception: employers may not fire employees for illegal reasons, including discrimination. • Federal protected classes include: Race Color Religion or creed National origin or ancestry Sex Age Physical or mental disability Veteran status Genetic information Citizenship
<p>Severance Pay</p>	<ul style="list-style-type: none"> • In most situations, severance is not required, unless explicitly stated in an employment contract. • Severance is typically provided during involuntary terminations

	<p>(not if an employee voluntarily leaves).</p> <ul style="list-style-type: none">• If you provide severance, be aware that you must provide documentation to employees during their termination.• The documentation review timelines are different depending on the age of the employee. Employees over 40 have 21 days (and employees under 40 have 7 days) to review and sign their severance agreement.
Documentation	Provide the terminated employee with a copy of all separation documentation (COBRA and severance paperwork).
Offer Letters	<ul style="list-style-type: none">• Make sure your offer letters don't inadvertently imply contracts.• State in the offer letter that it is not a contract, and the employment is "at will," unless you explicitly want a contracted employee.
Policy	Create a simple policy around terminations including severance, transition of work, and ownership of company property. Treat all employees according to the same policy.

How to prepare for terminations

Determine the type of termination.	<ul style="list-style-type: none">• Under the law in most states, if there's no employment contract, workers are employed on an "at-will" basis. That means employers have the right to fire employees at any time for any reason or no reason at all, and, conversely, employees have the right to leave the organization at any time.
Ensure proper documentation.	<ul style="list-style-type: none">• Terminations should not be a surprise, if at all possible. The affected employee should have a chance to improve their performance or behavior that may lead to termination.Document all conversations related to performance or behavior in your HRIS or Performance Management System.Share with the employee all documentation, and make sure the employee acknowledges receipt of this documentation.Sometimes terminations occur for business reasons. Be transparent with the employee that they are being terminated due to reduction in workforce. Especially in these instances, be as generous as you can with notice and severance for the employee.
Have a succession/transition plan.	<ul style="list-style-type: none">• As soon as you decide to terminate the employee, prepare

	<p>a succession / transition plan:Ensure you have a termination checklist. Use this template during every termination to make sure you don't forget steps.Review the employee's roles and responsibilities, and document to whom the work will be transitioned. Determine how long it will take to transition these duties and create a plan to avoid operational gaps after the termination.Select the time and day. Conducting termination on Friday afternoon creates the minimum amount of disruption to the rest of the staff, and gives the employee the weekend to reflect and prepare.</p>
<p>Install security and exit protocols.</p>	<ul style="list-style-type: none"> ● Determine if security should be present at or near the point of termination and make arrangements if needed. ● Make arrangements for two employees to be present at the termination (ideally the manager and an HR representative). ● Only one person should actually conduct the conversation (ideally the manager). The HR representative is there as a witness and to step in if the termination doesn't go as planned.

How to conduct the termination conversation

Preparatory Checklist:

- Make sure the employee will be present the day you plan the termination.
- Make sure an HR representative (or another manager) is present in the termination area as a witness.
- Prepare all documentation including any severance, benefits, and compliance documents required by your company and state.
- Prepare the room where you will conduct the termination. It should be private and in an area that will allow the employee to exit gracefully if needed. Have tissues and water available.
- Take a moment to remember that the person you are terminating is human, and will be emotionally affected by this on some level.
- When you're ready to begin, ask the employee to join you. Telling them too early will create anxiety.
- Conduct the conversation, which consists of five parts:
- **1. Immediately tell the employee that they are being terminated.** Avoid small talk or jokes. A good way to start is to say, "Hello [NAME], I have some bad news to share today. Your position is being terminated."
- **2. Explain the reason for termination in one or two sentences,** "As you know, we have had several discussions related to your performance. I am terminating you today for [INSERT REASON]," or "[NAME], the company is under significant financial pressure. I am terminating your position today for that reason."
- **3. Provide them with the documentation you've prepared.** Summarize any relevant points such as last day in the office, severance amount and requirements, benefits expiration and/or COBRA information, non compete clauses, etc.
- **4. Explain what is happening today.** Tell them your process and what they should expect. "Today will be your last day in the office. I believe you have some personal items at your desk, and I'd be happy to collect them for you, or you are welcome to go get them yourself if you're comfortable." OR "As per our policy, security will escort you to your car."
- **5. Reinforce that the decision is final,** and offer to have a follow up conversation at least 24 hours later. Ask the employee to review the documents and prepare a list of questions.

Understand that even when it is expected, being terminated is a very difficult circumstance for the employee and they are likely to feel a variety of negative emotions. They probably didn't absorb everything you just told them which is why you want to offer a follow up a few days later.

- Jennifer Walker.

- Collect company property.
- Ensure the employee leaves company premises.
- Send an email to the relevant parts of the organization stating: "[EMPLOYEE NAME] is no longer with [COMPANY NAME], effective today. We wish [EMPLOYEE NAME] the very best in her next venture. Please speak to [CONTACT NAME] in HR if you have any questions."

How to respond to typical reactions of a terminated employee

Employee's reaction	How to respond	What to say
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Shock	Don't defend or debate the decision	The decision about your position is final.
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Shock	Repeat and restate the message.	We appreciate the value you added to our company. We want to make things as easy as possible given the circumstances
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Shock	Acknowledge the	I understand this news
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	emotion.	comes as a surprise. Take as much time as you need to collect yourself. Offer water, tissues, and offer to leave the room if they need a moment alone.
Denial	Make sure the message got through.	I want to make sure you understand what I am saying.

Denial	Repeat the message.	Your position has been terminated and you will no longer be employed here, effective XYZ Date.
Denial	Continue to repeat the message.	I understand this news comes as a surprise. Take as much time as you need to collect yourself. [Repeat as needed.]
Anger	Don't defend or debate the decision.	The decision about your position is final.
Anger	Acknowledge the emotion.	I understand that this news is upsetting, and I can empathize that you might feel angry.

Anger	Be firm.	You are reacting in a way that makes me uncomfortable. Please take a moment to collect yourself and we can continue the conversation. [If you feel you're in danger, engage the person you have on standby to assist you.]
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Grief	Acknowledge the emotion.	I understand this news comes as a surprise. Take as much time as you need to collect yourself. [Offer water, tissues, and offer to leave the room if they need a moment alone.]
	Stick to the process.	The decision about your position is final.
	Focus on the future.	There is a future out there for you and I hope you are able to find the opportunity in this difficult situation.

Additional considerations

Handling major policy violations:

Occasionally, an employee may perform a major policy violation (harassment, violence, fraud, etc.), which requires **immediate removal** with little time to prepare. In this case, follow a modified plan:

1. **Put employee safety and well being first.** Depending on the nature of the situation, removing the employee from company premises may be your priority. At a minimum, notify security or another employee to act as witnesses.
2. **Inform the employee they are being terminated and ask them to leave at once.** Tell the terminated employee that you will follow up by phone within 24 hours.
3. **Prepare documentation as per above.**
4. **Conduct the termination conversation as per above.**

Note: You should only terminate an employee for major policy violations on the spot if you are 100% confident the act(s) occurred. A good alternative is to suspend the employee while HR investigates the issue, if you are unsure.

I recommend using LinkedIn to provide letters of recommendation. It's faster and is far more likely to be read than a traditional letter. It also gives you the power to update or delete the recommendation if circumstances warrant it.

- Jennifer Walker

Voluntary Termination:

- **When an employee quits, it is referred to as voluntary termination.** You are entitled to ask the employee to transition their work, but just as you are not required to offer severance, the employee is not required to provide notice, unless the contract states otherwise. Most employees will offer a two week notice period.

Practice:

- Practice the termination conversation a few times before you conduct one in real life. It can be scary to fire someone, but it is important to learn how to do it right.

I've found that once an employee gives notice, their productivity decreases. Consider having them transition their work to another employee and paying them two weeks salary as soon as the work is effectively transitioned. Require the 'receiving' employee to sign off before you make the payout. This aligns the leaving employee's motivations to transition the work as soon as possible, and will keep other employees from being dragged down by their low productivity.

- Jennier Walker.

Conducting Exit Interviews.

How to conduct an exit interview

Common reasons employees leave their place of employment

There are many reasons employees voluntarily leave their place of employment. Many are lured by the prospects of career advancement, higher compensation, and benefits or lifestyle accommodations. Others seek to escape difficult relationships, limited growth opportunities, unwelcoming cultures, or perceived organizational instability. Specific reasons for leaving include:

- **Unfulfilling Jobs.** Employees state that they leave jobs that do not utilize their strengths and/or do not provide ample opportunity to build career-advancing skills.
- **Difficult work relationships** with supervisors or **managers** or other co-workers.
- **Corporate cultures that are not engaging.** Employees leave organizations that lack employee-friendly policies and programs, or are not perceived as safe or fair and equitable.
- **Career advancement opportunities,** better pay, benefits, and perks.

- **Better work/life balance** and **lifestyle accommodations** to shorten commutes, reduce travel, etc.
- Insecurity about the company's **organizational or financial stability**.

@interv

Use exit interviews to improve company recruitment and retention

Exit interviews are an excellent source of data that informs both recruitment and retention strategies.

To improve recruitment, exit interviews:	To improve retention, exit interviews:
Provide experiential job data that can aid recruiters in identifying best fit replacement candidates.	Provide data about possible job improvements and missing perks that could aid in retaining existing employees.
Provide little known job features that can be promoted when posting positions.	Uncover managerial or work-team issues that may need to be resolved before backfilling a job.
Provide intelligence about competitors in the war for talent.	Reveal perceptions about the company culture and the effectiveness of engagement initiatives
Uncover potential talent gaps that need to be filled by the organization.	Uncover potential skill or competency gaps that need to be developed in the organization.
Provide ideas and information that will help the organization become an	Provide data to help improve the organization and the effectiveness of

employer of choice.	its leaders
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How to conduct exit interviews

To conduct an informative exit interview, it is good practice to have the departing employee complete an **exit interview survey questionnaire** several days prior to the exit interview. This allows the employee time to provide detailed answers to exit survey questions. The completed survey can serve as a source of questions for follow-up when conducting the exit interview and can be a robust data collection tool.

- As neutral third parties, **HR professionals** should conduct the exit interview in a **face-to-face** meeting whenever possible.
- Exit interviews can be facilitated as a **conference call for remote employees**.
- Interviews are typically scheduled for 30 minutes on the last day (or during the last week) of employment.

Questions to ask during an exit interview

Questions to ask during the exit interview include:

- Your last day worked is_____?
- Have you returned or do you have with you now company assets that need to be turned in?
- Please confirm your home address, email address, and a phone number where we may contact you.
- What motivated your decision to look for another job?
- What was the biggest factor that led you to accept this new job?
- How could we have averted your decision to leave?
- Where are you going? Company? What role will you assume?
- How does the salary and benefits compare to what you received here?
- In what ways was your actual job different from the opportunity we sold you during our recruiting process?
- How equipped do you think you were to do your job well?
- What did you like most about your job? What did you dislike the most about your job?
- What was your relationship with your manager like? Co-Workers?

- How frequently did you get performance feedback?
- How frequently did you have discussions with your manager about your career goals?
- What skills and qualifications do you think we need to look for in your replacement?
- What are the most pressing areas of improvement you feel this organization should address to become a “Best Place to Work”?
- What Issues or concerns do you have that have not surfaced yet but you feel important enough that the organization should know about or address?
- Would you recommend this company to a friend as a place to work?
- Are you willing to provide us a Glassdoor review?
- Do you have any additional questions or comments?

Questions that shouldn't be asked during an exit interview

- **Leading questions** should not be asked during the exit interview since they lead the employee in a particular direction in their response. Leading question: Did the lack of growth opportunities contribute to your decision to leave? Non-leading question: What factors contributed to your decision to leave the company?
- **Closed-ended questions** should be limited because they produce yes or no answers. Closed-ended question: Is the culture here employee-friendly? Open-ended question: Describe the current state of the organization's culture? Closed-ended questions should only be used to verify information (e.g. Is your home address correct as printed on the form?)

Ensure your organization learns from exit interviews

- **Exit interviews reflect the perspectives of the departing employee.** It's possible to validate findings by reviewing personnel files, performance evaluations, and comparing to other data that has been collected and stored including data collected from resignations, layoffs, and other exit interviews.
- **The exit interview and questionnaire data are confidential.** Breach of confidentiality should only occur if there is an alleged breach of corporate policy or a violation of the law and an investigation is required.
- **Some items may require follow-up with the manager for coaching and the development of action items including planning for potential backfill of the departing employee.**

- **Interview responses and survey questionnaire data should be compiled in aggregate, analyzed for themes, and on a scheduled basis** (e.g., monthly, quarterly, or annually). Those key themes and trends should be reported to leadership and used in strategic talent planning.

Questions to expect from exiting employee;

Employee Question	Strategic Response
<i>Will my feedback be anonymous?</i>	<ul style="list-style-type: none"> • To respond to this question, consult your company’s whistleblower policy and/or the employee handbook to determine guidelines. • Note: There are some responses that require immediate investigation such as sexual harassment, fraud or theft, and threats of physical bodily harm. In such cases, complete anonymity is not possible and should be stated to the employee.
<i>Do I have the option to come back here one day?</i>	<ul style="list-style-type: none"> • To respond to this question, check your organization’s handbook for an employee rehire policy. • If there is a provision for rehire, state that there is an opportunity to be rehired and that the former employee can apply for and be considered for open positions. • Never suggest that they will be guaranteed a position if they reapply.
<i>Can I use you as a reference in the</i>	<ul style="list-style-type: none"> • To respond to this question,

<p><i>future?</i></p>	<p>check corporate policy and the employee handbook to determine your organization's position on providing references.</p> <ul style="list-style-type: none">• Many organizations do not permit managers and leaders to provide professional references. Most organizations will however, provide verification of employment including the position(s), dates of employment and compensation with employee authorization.• If your organization has a third party provider for employment verification, sharing that contact information for that service should be included as a response to this question.
<p><i>When can I expect my final paycheck, and how much will it be?</i></p>	<ul style="list-style-type: none">• To answer this question, you should identify the next possible pay date after the last day of employment.• For a regular termination, final pay is usually in the paycheck following the employee's last day of employment. It may also include any unused but accrued PTO or sick time in accordance with your paid time off and sick leave payout policies.• You will need to secure eligible PTO and sick time and calculate the requisite payout amount and add it to final pay. Your payroll department can assist with this calculation.• There are some states that require that final pay be provided on the last day of employment. Check your state and local laws for this

	information.
<i>Is there any kind of non-compete in place?</i>	<ul style="list-style-type: none"> • Typically, restrictive covenants such as non-compete are documents that employees sign upon hire into an organization. • To answer this question, you can review the employee's personnel file to see if any restrictive covenants were signed. If so, you can respond affirmatively and also provide a copy of the non-compete or other restrictive covenants that may apply. • This serves as a reminder to the employee of her obligations to the organization even after leaving the organization.

- Legal issues to consider when communicating layoffs

How to communicate a layoff to employees

Rumors of layoffs can spread like wildfire (even stemming from senior leadership), and it can be detrimental to employee morale and trust.

Below is a **step-by-step process to communicate with employees** in the event of a company layoff.

Note: If there are employees who are absent from work, or your team is geographically dispersed, send out an **Imminent Layoff Announcement Email (Company-wide)** no more than 2-3 days prior to contacting employees individually.

Step 2: Send out an **Imminent Layoff Announcement Email to individual employees** preferably the same day as your Imminent Layoff Announcement Email to the entire company.

Step 3: Have managers/leaders communicate with team members individually that are departing, and then host meetings for the team after to explain what is going on. Use this **Layoffs Verbal Script** for conducting this conversation with employees one-on-one.

Step 4: Once you have conducted a one-on-one with all employees who are affected by the layoff, use this **Written Layoffs Follow Up** to ensure their understanding.

If your company has over 100 employees, proceed to steps 5 and 6. If your company has less than 100 employees, skip to step 7:

Step 5: Circulate this WARN Act Notice to all employees pending an imminent layoff. Note: If your company has over 100 employees, the Department of Labor has additional notification requirements in the WARN Act that should be considered. **(Be sure to include and provide easy access to this WARN Act Fact Sheet in your Employee Handbook).**

Step 6: Submit to your state and local governments this WARN Act Notification of Layoffs.

Step 7: Use the Layoffs Checklist to ensure that you have covered all of your bases. It's best practice to review this checklist before, during, and after the process of laying off employees.