

Three Things Employers Should Do When an Employee Resigns

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Unemployment is low and the job market is currently tight. In this environment, talented employees are in high demand. Your best and brightest employees could jump ship for "greener pastures." If your industry is highly competitive, the loss of talent to a competitor could be a real threat. Assuming you have confidentiality, non-solicitation, and (where legal) non-compete agreements in place, that threat could be reduced. But even *with these agreements in place*, employers must have a plan in place to address the unexpected departure of talented employees. Here are three things an employer should do when one of its employees resigns.

Follow Exit Protocols: First, do not panic!! Follow your protocol. Most employers have a written protocol addressing employee termination. If you do not have such a protocol, it is wise to prepare one. Following termination protocol with each and every employee avoids the appearance of impropriety, favoritism, or bias. Treating every departing employee fairly and properly under a respectful exit protocol is not only the right thing to do, it could also be useful in the defense of an employee-related lawsuit.

Preserve the Personnel File: Second, keep that personnel file!! Time and again, I have been involved in cases wherein the employer has failed to keep personnel files. On some occasions, an employee secretly planning his departure has taken the personnel file. Keeping a paper and electronic copy of personnel files is critical. If your company is moving away from paper, electronic storage is for you. Limited access to these files ensures that they are less likely to be lost or stolen.

Upon receiving notice from the employee that they are leaving, confirming that you have either an electronic or paper personnel file locked away is among the first things an employer should have on its exit protocol list. The human memory is degenerative. A secured personnel file is forever and could come in handy if a lawsuit involving the employee ever occurs.

Preserve the Employee's Electronic Data: Third, save the computer and emails!! Computers, smart phones, and tablets; we all have them and use them. As an employer, you have reaped the benefit of instant access to your employees via these electronic tools. Here is the downside: all of the company information that your employees have access to can easily be copied, forwarded, or even destroyed with the touch of a button.

When you receive notice from the employee that she is leaving, you have to act quickly. Limiting the employee's access to proprietary information and cloning the employee's company-issued computers, phones, and/or tablets ensures that you can determine whether the employee has taken, shared, or destroyed company information. In the rare instance an employee has simply destroyed all of the information on its electronic devices, having electronic backups of all the employee's work files and email could help determine whether the employee had ill intentions or motives in deleting the information.

Related Attorneys

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