

Faulkner HR Solutions Termination Checklist

Practical Compliance Tool – Updated for September 2025

Redesigning the Way Organizations Grow



The Complete Guide for Texas Employers

This comprehensive checklist is designed to guide Texas employers through every aspect of the employee termination process, ensuring compliance with all federal, state, and local legal requirements while minimizing legal risks and maintaining professional standards. By following these detailed steps, you can conduct terminations that protect your business while treating employees with dignity and respect.

Why This Checklist Matters: Improper terminations are among the leading causes of employment lawsuits, with the average wrongful termination claim costing employers \$40,000 in legal fees alone, not including potential damages. Proper termination procedures protect your business from costly litigation while preserving your company's reputation and employee morale.

I. Pre-Termination: Strategic Planning and Risk Assessment (1-2 Weeks Before)

This critical phase involves thorough preparation, legal review, and strategic planning to ensure the termination is legally defensible and professionally executed.

A. Legal and Documentation Review

- ☐ **Comprehensive Personnel File Review:**
 - Review complete employment history including hire date, job descriptions, and role changes
 - Examine all performance reviews, ratings, and improvement plans
 - Review disciplinary actions, warnings, and corrective measures
 - Check attendance records, tardiness, and leave usage
 - Review any complaints, grievances, or workplace incidents
 - Examine training records and professional development
- ☐ **At-Will Employment Verification:**
 - Confirm employee's at-will status (Texas is an at-will state)
 - Review employment contract for any limitations on termination
 - Check for any implied contracts or verbal promises that might limit at-will status
 - Verify no collective bargaining agreement restrictions apply
- ☐ **Legal Compliance Assessment:**
 - Ensure termination doesn't violate federal anti-discrimination laws (Title VII, ADA, ADEA)
 - Verify no retaliation for protected activities (EEOC complaints, workers' comp claims, whistleblowing)
 - Check compliance with FMLA, USERRA, and other protected leave laws
 - Review state-specific protections and local ordinances
- ☐ **Consult with Legal Counsel:** For high-risk terminations involving:
 - Protected class members
 - Recent complaints or legal actions
 - Significant severance or settlement considerations
 - Potential wrongful termination claims
 - Non-compete or confidentiality enforcement issues

B. Business Justification and Documentation

- ☐ **Document Termination Rationale:**
 - Prepare clear, objective, business-related reasons for termination
 - Ensure reasons are consistent with documented performance issues
 - Avoid subjective or personal characterizations
 - Confirm consistency with how similar situations have been handled
- ☐ **Performance-Based Terminations:**
 - Document specific performance deficiencies
 - Show progressive discipline was followed (if required by policy)
 - Demonstrate employee was given opportunity to improve
 - Confirm performance standards were clearly communicated
- ☐ **Conduct-Based Terminations:**
 - Document specific policy violations or misconduct
 - Ensure thorough investigation was conducted
 - Maintain confidentiality of investigation
 - Confirm violations warrant termination per company policy
- ☐ **Reduction in Force (RIF) Terminations:**
 - Document legitimate business reasons for position elimination
 - Ensure selection criteria are objective and non-discriminatory
 - Consider WARN Act requirements (60-day notice for mass layoffs)
 - Review severance policies and legal requirements

C. Financial and Benefits Preparation

- ☐ **Calculate Final Pay** (Texas Payday Law Requirements):
 - **Involuntary Termination:** Final pay due within 6 calendar days
 - **Voluntary Termination:** Final pay due on next regular payday
 - Include all earned wages through termination date
 - Calculate overtime pay owed
 - Include accrued vacation/PTO per company policy
 - Calculate any earned commissions or bonuses per agreement
 - Determine any expense reimbursements owed
- ☐ **Review Benefit Obligations:**
 - **COBRA Continuation Coverage:** Prepare required notifications for health insurance
 - **Retirement Plans:** Understand vesting and distribution options
 - **Life Insurance:** Review conversion options
 - **Flexible Spending Accounts:** Determine final claim deadlines
 - **Stock Options/Equity:** Review vesting and exercise periods
- ☐ **Severance Considerations:**
 - Review company severance policy
 - Consider discretionary severance for risk mitigation
 - Prepare severance agreement if applicable
 - Include release of claims language
 - Ensure compliance with Older Workers Benefit Protection Act (if applicable)

D. Operational and Security Planning

- ☐ **Coordinate with Key Departments:**
 - **IT Security:** Plan for immediate system access termination
 - **Facilities:** Arrange for key/badge return and office access removal
 - **Payroll:** Ensure final pay processing and benefit terminations
 - **HR:** Coordinate COBRA administration and record updates
- ☐ **Identify Company Property:**
 - Company-issued equipment (laptop, phone, tablet, tools)
 - Access cards, keys, and security devices
 - Company credit cards and purchasing cards
 - Confidential documents and files
 - Company vehicles and fuel cards
 - Uniforms and safety equipment
- ☐ **Plan Work Transition:**
 - Identify critical projects and deadlines
 - Determine who will assume responsibilities
 - Plan for client/customer notifications
 - Secure important passwords and access codes
 - Prepare for knowledge transfer if possible

E. Meeting Logistics and Communication Planning

- ☐ **Schedule Termination Meeting:**
 - Choose private, neutral location (conference room, not employee's office)
 - Schedule for optimal timing (avoid Fridays, holidays, or stressful periods)
 - Allow adequate time without rushing
 - Plan for potential emotional reactions
- ☐ **Identify Meeting Participants:**
 - Direct supervisor or manager
 - HR representative (strongly recommended)
 - Witness (if needed for documentation)
 - Security personnel (if safety concerns exist)
- ☐ **Prepare Communication Materials:**
 - Termination letter with key details
 - COBRA notification and enrollment materials
 - Final pay information and timeline
 - Company property return checklist
 - Contact information for questions
 - Severance agreement (if applicable)

II. The Termination Meeting: Professional and Respectful Execution

The termination meeting is a critical moment that requires careful execution to maintain professionalism while protecting the company's interests.

A. Opening the Meeting

- ☐ **Set Professional Tone:** Begin with respectful, direct communication.
- ☐ **State Purpose Clearly:** "We've asked you to meet with us today to discuss your employment with [Company Name]."
- ☐ **Deliver Decision Directly:** "We have made the decision to terminate your employment, effective [date]."
- ☐ **Avoid Lengthy Explanations:** Keep initial statement brief and factual.

B. Communicating the Decision

- ☐ **Provide Brief Rationale:**
 - State business-related reason concisely
 - Reference documented performance or conduct issues
 - Avoid personal attacks or emotional language
 - Don't engage in lengthy debates or justifications
- ☐ **Emphasize Finality:** Make clear the decision is final and not subject to negotiation.
- ☐ **Maintain Professional Demeanor:** Stay calm, respectful, and businesslike throughout.

C. Reviewing Practical Matters

- ☐ **Review Termination Letter:** Go through key points including:
 - Effective date of termination
 - Final pay amount and payment date
 - Benefits continuation information
 - Company property return requirements
 - Contact information for questions
- ☐ **Explain Final Pay Details:**
 - Amount of final paycheck
 - Payment method and timing
 - Breakdown of wages, vacation, and other compensation
 - Deductions that will be taken
- ☐ **Discuss Benefits Continuation:**
 - Provide COBRA notification and materials
 - Explain health insurance continuation options
 - Review other benefit termination dates
 - Provide contact information for benefit questions
- ☐ **Address Severance (if applicable):**
 - Review severance terms and conditions
 - Explain release agreement requirements
 - Provide time for review (21 days for general releases, 45 days for age discrimination)

- Explain revocation period (7 days after signing)

D. Company Property and Access

- ☐ **Collect Company Property:**
 - Request immediate return of all company property
 - Use prepared checklist to ensure nothing is missed
 - Provide receipt for returned items
 - Arrange for pickup of items not immediately available
- ☐ **Revoke Access:**
 - Collect keys, access cards, and security devices
 - Confirm IT will disable system access immediately
 - Change passwords for shared accounts
 - Remove from company directories and distribution lists

E. Addressing Employee Concerns

- ☐ **Answer Practical Questions:** Be prepared to address:
 - Final pay timing and amount
 - Benefits continuation process
 - Reference policy and procedures
 - Personal property retrieval
 - Unemployment benefits eligibility
- ☐ **Avoid Detailed Justifications:** Don't get drawn into lengthy discussions about the decision.
- ☐ **Remain Professional:** Even if employee becomes emotional or argumentative.
- ☐ **Document Unusual Responses:** Note any threats, unusual behavior, or concerning statements.

F. Concluding the Meeting

- ☐ **Provide Contact Information:** Give employee contact details for follow-up questions.
- ☐ **Arrange Personal Property Collection:** Plan for employee to collect personal items.
- ☐ **Escort Procedures:** If necessary, arrange professional escort from premises.
- ☐ **Express Appropriate Sentiment:** "We wish you well in your future endeavors."

III. Immediate Post-Termination: Critical First Steps (Day 1)

The immediate aftermath of termination requires swift action to secure company interests while beginning the administrative process.

A. Security and Access Management

- ☐ **Immediate System Access Termination:**
 - Disable all computer accounts and email access
 - Remove from all system permissions and databases
 - Deactivate VPN and remote access capabilities
 - Cancel company credit cards and purchasing accounts
 - Remove from building access systems
- ☐ **Physical Security Measures:**
 - Change locks if employee had keys to sensitive areas
 - Update alarm codes if employee had access
 - Notify security personnel of termination
 - Review and secure any confidential information employee had access to
- ☐ **Communication Security:**
 - Set up email auto-reply message
 - Forward important emails to appropriate personnel
 - Change passwords for any shared accounts
 - Remove from company phone directories

B. Internal Communications

- ☐ **Notify Key Personnel:**
 - Direct supervisor and department head
 - HR department for record updates
 - IT department for system access removal
 - Payroll for final pay processing
 - Benefits administration for COBRA processing
- ☐ **Team Notification:**
 - Inform immediate team members appropriately
 - Provide brief, professional explanation
 - Avoid sharing confidential details
 - Address work redistribution plans
- ☐ **Client/Customer Notifications:**
 - Identify clients who worked directly with terminated employee
 - Prepare professional transition communications
 - Assign relationship management to other team members
 - Ensure continuity of service

C. Documentation and Record Keeping

- ☐ **Document Termination Meeting:**

- Record date, time, location, and participants
- Summarize key points discussed
- Note employee's response and any concerns raised
- Document any unusual behavior or statements
- ☐ **Update Personnel Records:**
 - Change employment status in HRIS
 - Update termination date and reason
 - Ensure all documentation is properly filed
 - Secure personnel file with appropriate access controls
- ☐ **Create Termination File:**
 - Include termination letter and documentation
 - Add final pay calculations and records
 - Include COBRA notifications and responses
 - Maintain property return receipts

IV. Administrative Completion: Legal and Financial Obligations (Days 2-30)

This phase focuses on completing all legal obligations and administrative requirements following the termination.

A. Final Pay Processing (Critical Timing Requirements)

- ☐ **Process Final Paycheck (Texas Payday Law):**
 - **Involuntary Termination:** Must pay within 6 calendar days
 - **Voluntary Termination:** Must pay by next regular payday
 - Include all wages earned through termination date
 - Add accrued vacation/PTO per company policy
 - Include any earned commissions or bonuses
 - Process any expense reimbursements
- ☐ **Handle Special Pay Situations:**
 - **Commission Payments:** Follow commission agreement terms
 - **Bonus Payments:** Review bonus plan requirements
 - **Lump-Sum Payments \$500+:** Notify Texas Attorney General for child support garnishment review
 - **Deductions:** Only make authorized deductions (cannot withhold for unreturned property)
- ☐ **Provide Pay Documentation:**
 - Detailed pay stub showing all components
 - Written explanation of any deductions
 - Contact information for payroll questions

B. Benefits Administration

- ☐ **COBRA Administration:**
 - Send COBRA election notice within 44 days of qualifying event
 - Provide detailed coverage and cost information
 - Explain election deadlines (60 days to elect)
 - Set up premium collection process if elected
 - Maintain COBRA records for required retention period
- ☐ **Other Benefit Terminations:**
 - **Health Insurance:** Coordinate termination with COBRA start
 - **Life Insurance:** Provide conversion options if available
 - **Disability Insurance:** Process final claims and termination
 - **Retirement Plans:** Provide distribution options and deadlines
 - **Flexible Spending Accounts:** Communicate final claim deadlines
- ☐ **Final Benefit Reconciliation:**
 - Calculate any benefit overpayments or underpayments
 - Process final benefit deductions from final pay
 - Provide summary of benefit termination dates

C. Unemployment Insurance Response

- ☐ **Prepare for Unemployment Claims:**
 - Gather documentation supporting termination decision
 - Prepare factual summary of termination reasons
 - Identify witnesses who can testify if needed
 - Review company unemployment response procedures
- ☐ **Respond to Claims Promptly:**
 - Submit response within required timeframe (typically 10 days)
 - Provide factual, documented information only
 - Avoid emotional or subjective characterizations
 - Include relevant supporting documentation
- ☐ **Participate in Hearings:**
 - Attend unemployment hearings if claims are contested
 - Bring relevant documentation and witnesses
 - Present facts objectively and professionally
 - Follow up on hearing decisions and appeals

D. Legal and Compliance Considerations

- ☐ **Non-Compete and Confidentiality Enforcement:**
 - Review non-compete agreement terms and enforceability
 - Send reminder letter about ongoing confidentiality obligations
 - Monitor for potential violations
 - Consider legal action if violations occur
- ☐ **Reference Policy Implementation:**
 - Establish who can provide references
 - Determine what information will be shared
 - Document reference policy for consistency
 - Train managers on appropriate reference responses
- ☐ **Record Retention Compliance:**
 - Maintain personnel files per legal requirements
 - Secure confidential information appropriately
 - Establish retention schedule for termination documents
 - Ensure compliance with state and federal retention laws

V. Long-Term Follow-Up: Risk Management and Continuous Improvement (30+ Days)

This phase focuses on ongoing risk management and learning from the termination experience.

A. Ongoing Monitoring and Risk Management

- ☐ **Monitor for Legal Claims:**
 - Watch for EEOC charges or discrimination complaints
 - Monitor for wrongful termination lawsuits
 - Track unemployment claim outcomes
 - Document any post-termination communications
- ☐ **Competitive Intelligence:**
 - Monitor former employee's new employment
 - Watch for potential non-compete violations
 - Protect confidential information and trade secrets
 - Address any customer/client solicitation issues
- ☐ **Reference Management:**
 - Respond to reference requests per company policy
 - Document all reference inquiries and responses
 - Maintain consistency in information provided
 - Avoid defamatory or subjective statements

B. Team and Organizational Impact

- ☐ **Team Morale and Communication:**
 - Monitor team morale and productivity
 - Address any concerns or questions from remaining employees
 - Reinforce company values and expectations
 - Provide additional support if needed
- ☐ **Work Redistribution and Coverage:**
 - Ensure terminated employee's responsibilities are properly covered
 - Monitor quality and continuity of work
 - Consider hiring replacement or reorganizing duties
 - Address any client or customer concerns
- ☐ **Knowledge Transfer and Documentation:**
 - Capture any critical knowledge that may have been lost
 - Update procedures and documentation
 - Cross-train other employees on critical functions
 - Improve knowledge management systems

C. Process Improvement and Learning

- ☐ **Termination Process Review:**
 - Evaluate effectiveness of termination procedures

- Identify areas for improvement
 - Update policies and procedures as needed
 - Train managers on lessons learned
 - ☐ **Performance Management Assessment:**
 - Review performance management process that led to termination
 - Identify earlier intervention opportunities
 - Improve documentation and communication practices
 - Enhance training and development programs
 - ☐ **Legal and Compliance Updates:**
 - Stay current on employment law changes
 - Update policies to reflect legal developments
 - Provide ongoing training to managers and HR staff
 - Review and update termination procedures regularly
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Legal Compliance Quick Reference

Texas State Law Requirements

- **At-Will Employment:** Texas is an at-will state with limited exceptions
- **Final Pay Timing:**
 - Involuntary termination: 6 calendar days
 - Voluntary termination: Next regular payday
- **Final Pay Components:** Must include all earned wages, accrued vacation (if policy requires), commissions, and bonuses per agreement
- **Property Return:** Cannot withhold final pay for unreturned property
- **Lump-Sum Notification:** Notify Attorney General for payments \$500+ for child support garnishment review

Federal Law Requirements

- **COBRA:** 44-day notice requirement for health insurance continuation
- **WARN Act:** 60-day notice for mass layoffs (100+ employees)
- **Anti-Discrimination:** Cannot terminate based on protected characteristics
- **Anti-Retaliation:** Cannot terminate for protected activities
- **FMLA:** Cannot terminate for taking protected leave
- **Record Retention:** Maintain termination records per federal requirements

Documentation Requirements

- **Personnel Files:** Complete employment record with performance documentation
- **Termination Documentation:** Written rationale, meeting notes, final pay calculations
- **COBRA Records:** All notifications, elections, and premium payments
- **Unemployment Records:** Claims, responses, and hearing documentation
- **Property Return:** Receipts and acknowledgments for returned company property

Common Legal Pitfalls to Avoid

- **Inconsistent Application:** Treating similar situations differently
- **Inadequate Documentation:** Insufficient performance or conduct documentation
- **Discriminatory Timing:** Terminating after protected activity or during protected leave
- **Improper Final Pay:** Missing deadlines or components of final compensation
- **Defamatory Statements:** Making false or damaging statements about former employee

Disclaimer: This checklist is intended for informational purposes only and does not constitute legal advice. Employment laws are complex and change frequently. Employers should consult with qualified legal counsel to ensure compliance with all applicable federal, state, and local laws and regulations. This checklist should be customized to reflect your specific business needs, industry requirements, and legal obligations.

Employee terminations are among the highest-risk HR activities your business faces. One mistake can result in costly litigation, damaged reputation, and regulatory scrutiny. Our team of experienced employment law specialists and HR professionals understands the complexities of Texas employment law and can guide you through every aspect of the termination process. From policy development and manager training to handling high-risk terminations and defending against claims, we provide the expertise you need to protect your business while treating employees fairly and professionally. **Don't navigate these treacherous waters alone – [contact us today](#) for a confidential consultation** and discover how our proven termination management strategies can minimize your legal exposure while preserving your company's reputation and employee relationships.