

Managing

MARCIA PENNINGTON SHANNON

Assignment Difficult: The Termination Decision

One of the most difficult tasks a supervisor has is making, and carrying through on, the decision to terminate an employee. Most lawyers who supervise other lawyers find the termination decision the most stressful part of their managerial roles. Even when it is clear there is a poor fit between the individual and the position or the firm, most lawyer-supervisors will agonize over whether—and how—to fire someone.

Let's explore this challenging subject, including the process of making the decision and the factors to consider in preparing for the separation meeting.

Making the Decision: How to Know the Time Has Come

The decision to end the relationship between your firm and a lawyer in your employ will rarely be for "cause," that is, for a single, significant event that makes immediate termination necessary. Typically, you'll need to ask a lawyer to leave for one of the following reasons:

- The individual's skill level is not meeting the requirements of the position.
- The individual is not progressing in the way that was expected.
- Work has slowed significantly in this person's practice area and other work or retraining is not available.
- You do not see this person as a partner in your firm and there are no alternatives to partnership.

How do you know when it's time to end the employment relationship with someone? The decision will be more clear-cut if you have been giving

Action Plan

When ending the employment relationship between a lawyer and your firm, aim for as smooth a separation as possible, for both the firm and the employee. Follow this checklist in preparing for the termination meeting.

- Be clear on how you arrived at this decision, and be able to articulate it to the lawyer.
- Determine how much time you will give the lawyer to look for a new position.
- Decide how you will handle salary, benefits and office use while the lawyer seeks a new job.
- Decide whether the firm expects this person to continue to work during this time or to devote full-time to finding a new position.
- Consider how the firm will support the individual's job search—for example, with secretarial assistance, career transition counseling, facsimile, copier and Internet access or other resources.
- Specify who will serve as the lawyer's reference and what the reference will say about the individual's performance and separation from the firm.

regular formal evaluations to the lawyers you supervise.

With strategic evaluations. Effective evaluations, delivered through a strategic, organized process, define the firm's measures of success and lay out the specific competencies required for a lawyer to succeed in a given position within the firm. Thus, when you give formal evaluations regularly, the signs that an individual is not meeting expectations, or that a "bad" fit exists between the firm and this person, become evident. While your evaluation process should include suggestions for improvement, sometimes it is simply obvious that this particular person needs to look for alternative employment. (See the April 2003 *Managing* column for pointers on building an effective evaluation process.)

Absent strategic evaluations. If you have not instituted a formal evaluation system yet, you can consider the following questions in deciding whether to let a lawyer go:

- Does this individual meet work expectations?
- Does this person understand the requirements of the job (such as billable hours needed) that may affect his or her continued employment?
- Have you provided feedback to the individual regarding work areas in need of improvement, and has this individual addressed those areas?
- Do you trust this individual with significant matters?
- Do you view this person as a good representative of the firm?

■ Can you use this person's work product without substantial editing?

■ Do you trust this person to talk with the firm's clients?

Watch for patterns. As you answer these questions, immediate patterns will emerge. In some cases, you may decide that the person needs a "probation" period, in which he or she can address the work areas in need of improvement. If you decide to use a probation period, have a specific timetable, as well as detailed descriptions of the needed improvements and your expectations for further development.

In other cases, you may decide that the long-term fit is simply not there—and, consequently, you'll need to ask the individual to look for alternative employment without added delay.

Preparing for the Separation Meeting: Factors to Consider

Once you have made the termination decision, you must prepare for the separation meeting. There are a number of factors you'll need to address, including the following:

■ How long will this lawyer remain on the firm's payroll? It is common to give a lawyer time to look for a new position while still on the payroll. Many firms allow two to three months for junior to midlevel associates and more time for senior-level associates, counsel and partners, especially if they have been with the firm for a substantial amount of time.

■ How will the firm handle benefits, such as health and other insurance or retirement plans?

■ How long will you let the person continue to use his or her office and voice mail?

■ Will you allow the person to use secretarial support, facsimile and other resources, such as Internet access, to conduct a job search?

■ How will you take care of specifics such as vacation pay and accrued bonuses?

■ How will the firm handle references for this person? Who will serve as the reference, and what will the reference say about the individual's performance and separation from the firm?

■ Will the individual have firm work to do while looking for a new job? If so, are there continued billable requirements?

■ Will the firm provide outplacement or career transition support? Many firms offer some type of support for their lawyers in transition, especially for those who may need extra assistance separating from the firm and preparing for and carrying out a successful job search.

Planning for a Smooth Transition

Making the decision to terminate a lawyer's employment with your firm is difficult. Once that decision has been made, however, it is important to think through all the factors and prepare properly for the separation meeting. That meeting can set the tone for the lawyer's remaining time with the firm, as well as for future relationships with the lawyer and his or her new employers. Don't burn bridges unnecessarily. Take the time and steps necessary to ensure a smooth transition for everyone. ■



Marcia Pennington Shannon (www.shannonandmanch.com) is a principal in the Washington, DC, attorney management consulting firm Shannon & Manch, LLP. She is coauthor of *Recruiting Lawyers: How to Hire the Best Talent* (ABA, 2000).