

7.7 Resignation, Termination, and Staff Reduction

Debra Fiori

Staff departures are a reality in all architecture firms. For whatever reason departures occur, handling these situations well—no matter which side of the desk you sit on—is a mark of professionalism.

Long-term changes in the profession and building industry may cause fluctuations in staffing or cycles of expansion and contraction, leading to reductions in staff. The reasons for employee terminations are numerous, and many are beyond a firm's control. Despite all efforts at coaching and development, a firm may decide that an individual's skill is not the right match for the firm or the position. Other employees might decide to retire or leave for personal reasons, or the firm might decide to terminate someone's employment for non-performance-related business reasons. No matter the reason, when a valued employee leaves the firm, the impact can be considerable.

VOLUNTARY RESIGNATION

A valued employee's resignation can be disheartening, but every effort should be made to part on good terms. Even in large metropolitan areas, the architecture community is close-knit. A dissatisfied employee today could be a client representative tomorrow.

It is common business practice to expect a two-week notice from a resigning employee. Sometimes it is possible to negotiate a longer period with a senior employee whose absence will create significant gaps in project continuity. Usually it is best not to try to dissuade someone who has decided to leave. It is better to leave the door open for a possible future return. If the situation warrants, the firm can ask a dissatisfied employee to depart sooner than the effective date of the resignation. The firm may also choose to buy out the notice period to prevent dissatisfied employees from being disruptive or unproductive during the period before they leave.

Management should conduct an exit interview with the departing employee. The purpose of the interview should be to gain the employee's perspective on his or her employment experience with the firm. This interview should be conducted by an objective individual who is not involved with the daily activities of the departing employee. The interviewer should listen carefully, remain impartial, and try not to defend the firm. A firm can learn a great deal from trends identified through exit interviews.

TERMINATION

Terminating an employee is sometimes the only solution to a personnel problem. Except in the case of gross misconduct, termination should not come as a surprise to an employee. The employee already should have been given feedback and clear messages about consequences of failure to improve performance.

The turnover percentage rate is calculated by dividing the number of terminations each year by the average number of employees in that year and multiplying the result by 100.

Be sure that your treatment of an employee in a protected class does not vary from your treatment of those who are not in a protected class.

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TERMINATION CHECKLIST

Employee Information

Employee Name _____ Employee Number _____ Term Date _____

- Documentation of performance issues and disciplinary action is in employee file or obtain resignation letter from employee.

Before Employee's Last Day of Employment

- Prepare COBRA letter.
- Schedule exit interview.
- Final paycheck is being prepared.
- Check for final balances on corporate credit card and cancel card.
- Final expense reports submitted and paid.

Last Day of Employment

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| <ul style="list-style-type: none"> <input type="checkbox"/> Provide COBRA letter and explain. <ul style="list-style-type: none"> – 60 days to elect coverage – 45 days to send in premium for all months since coverage ceased – Premium due 1st of the month <input type="checkbox"/> Nondisclosure agreement: <ul style="list-style-type: none"> – Provide copy. – Explain non-compete. – Retrieve any confidential information. <input type="checkbox"/> Determine payment of last paycheck. | <ul style="list-style-type: none"> <input type="checkbox"/> Address changes verified. <input type="checkbox"/> Collect or verify computer system(s) or equipment. <input type="checkbox"/> Collect security card. <input type="checkbox"/> Collect cell phone. <input type="checkbox"/> Collect phone card. <input type="checkbox"/> Collect corporate credit card. <input type="checkbox"/> Departure is communicated to staff. <input type="checkbox"/> Eligible for rehire? Yes__ No__ <input type="checkbox"/> Cancel voicemail account effective employee's last day. <input type="checkbox"/> Close employee's network access effective employee's last day. <input type="checkbox"/> Complete exit interview if voluntary termination. |
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After the Employee's Last Day

- Check for any additional amounts owed for commissions, expense reports, etc.
- Mail final pay stub to former employee if necessary.
- Complete and submit benefit forms to stop coverage with benefit carriers.
- If former employee submits a request for COBRA coverage, process request.

While there is no good way to terminate an employee, planning should be undertaken before the meeting in which the employee learns he or she will be let go. The meeting must take place in a private area with only the employee, the direct supervisor, and another involved manager or human resources representative present. Review previous documentation and give succinct and objective reasons for the termination. While firms with at-will employment provisions are not required to provide justification for employment terminations, it is advisable to give some explanation of the rationale supporting the termination decision. It is best to give the employee a letter outlining the main reason for termination and explaining payout of earned wages, severance pay, and conversion of benefits, as modeled in the sample letter shown. Although a termination letter is not required, its content can be used as talking points for the termination meeting and to substantiate what was said in the discussion. The letter can also

TERMINATION LETTER TEMPLATE

Date:

To: Employee

From: Manager

Re: Poor performance

On [insert date], we met to review your overall performance with a focus on deficiencies needing immediate improvement. Since that meeting, we have seen little or no improvement in your overall performance. Based on this, [insert firm name] has no other alternative but to end your employment. To assist you with this transition, [insert firm name] has prepared a separation package for you.

Payments and benefits. The payments and benefits to which you are entitled under the firm's policy will be provided without any action required on your part.

- *Severance pay.* [Outline any severance pay that the employee will receive and when they will receive this payment.]
- *Payout of vacation.* [Outline any payment of unused vacation or other leave that the firm will be paid out to the employee and when they will receive this payment.]
- *Continuation of benefits.* [Give an explanation of the transition of benefits identifying when specific benefits will end.]

Payment of severance pay is conditioned on your cooperation with [insert firm name] in the transfer of your professional responsibilities and your departure from [insert firm name] in a professional and businesslike manner.

Administrative procedures:

- To ensure that you receive your W-2 form, please notify _____ of any address changes.
- _____ will collect all company property in your possession. If you have any items at home, you may mail the equipment, etc., to [insert firm name] properly packaged and insured. [Insert firm name] will immediately reimburse you for the postage.

We wish you success in finding other employment. If you need additional assistance in your transition, please feel free to contact _____.

later be used to help defend a termination if it is challenged, and to help the employee and the employer when an examiner is determining unemployment eligibility.

Reactions to a termination can vary from defensiveness to tears. The manager should remain calm and composed, even if the discharged employee becomes angry or distressed.

In some cases, the discharged employee should be asked to leave the office immediately and it may be wise to have someone accompany the individual to collect personal possessions. In other cases, you may choose to give the employee more freedom and trust by allowing him or her to leave when ready at some point during the day. It may be helpful to give the employee the option to come back during off hours with supervision to collect belongings. To make the uncomfortable process move as quickly and as efficiently as possible, have all necessary paperwork (e.g., insurance coordination forms, distribution of savings plan amounts, and verification of forwarding address) prepared for the employee to sign. Collect keys to the office, restrict access to software and archives, and change computer and other access codes if necessary.

Some states have strict time limits for final payment and requirements for payout of accrued vacation time. The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) requires that firms give employees and their family members the right to continue group health benefits at their own cost for a specified period.

Unemployment insurance benefits vary from state to state but, in general, if an employee leaves voluntarily without cause or is guilty of gross misconduct he or she is not eligible or must complete a substantial waiting period. However, each unemployment claim filed against your firm by an eligible ex-employee will increase your firm's contribution.

Use the term “staff reduction” rather than “layoff,” since employees who have been “laid off” could infer the firm will immediately rehire them when the workload increases.

Terminating partners or senior staff presents another kind of trauma. There is a strong tradition that public announcements of such events are characterized as resignations. This is a face-saving technique with a kernel of truth for the firm as well as the individual, because usually the firm and the individual have agreed that the best interests of both will be served by parting company. A mutual understanding should be reached about what reason will be given to clients and those within the firm.

A clear-cut agreement should also be developed on transfer of ownership, liability, credit for work in progress, benefits, termination pay, and other buyout provisions. Some compromise obviously will be necessary; this may be facilitated by a knowledgeable third party. All separation agreements should be in writing, and legal review is advisable. The entire process is likely to take some time. Allow as much as three months or more to accomplish a smooth transition.

REDUCTION IN STAFF

Slow economic cycles are part of the architecture industry. In a design and construction market affected by ups and downs, firms periodically need to downsize. A hard look at projected revenues can indicate the number of people or level of salaries the firm can support. Much more difficult are the decisions that follow. Following are some initial steps a firm can take to avoid the need to reduce the size of its staff:

- Allow natural attrition to occur without replacement.
- Eliminate paid overtime.
- Attempt to speed up start dates or project schedules.
- Encourage or require employees to use vacation time during a slow period; encourage voluntary schedule reductions, leaves of absence, and so on.
- Refine project assignments to maximize billings.
- Review possible cost savings of subletting office space, temporarily reducing benefits, or tightening controls on overhead expenditures.

Communication with staff is critical during any economic downturn. When implementing cost-cutting measures, it is imperative to be honest and open with staff members about the goals of these tactics. Failure to do so may result in rumors and the appearance of keeping secrets, which could result in the loss of good, talented employees the firm wishes to retain. In addition, staff members often have ideas for enhancing cost-cutting efforts.

If cost-cutting measures are not successful, a few intermediate steps can be taken in an attempt to retain all staff members. Contact other architecture firms to see whether arrangements can be made to lend employees for a specified period. Consider withholding pay increases and perhaps reducing salaries, starting first with the firm’s owners, then senior staff members, and on down the line. Another alternative is to reduce work hours to a level consistent with project demands.

If reduction in staff is necessary, firm leaders must develop a procedure for selecting the employees to be terminated. This can be done based on job function, seniority (last in, first out), or job performance. If performance is a selection criterion, the firm must proceed cautiously to make sure all employees are compared equally. It is advisable to use documented performance appraisals or other evaluation criteria to make this determination. Using a specific procedure to select those to be terminated will aid the firm in the event of a wrongful-termination suit. When reducing staff, firms—especially those with affirmative action plans—need to be aware of any adverse effects that reduction in staff will have on representation of individuals in protected classes, such as women or minorities.

Once the reduction in staff is complete, the trust and loyalty of the employees that remain will be shaken. The first priority of the firm should be to give meaningful attention to the remaining employees. To rebuild trust, it is important for management to continue to be honest and open with employees about the decisions that were made and

why they were made. If there are positive signs of stabilization in the market and future increase in workload, this should be shared with employees. Weekly updates by management about projects and financial stability should be discussed as much as possible so employees feel that management is giving them the full picture. This openness will help diminish uncertainty about future downsizing. A fatal mistake is to communicate that there will not be future downsizing unless the firm is absolutely sure of this. Otherwise, if the firm has to downsize even more down the road, staff members will perceive that management misled them.

SEVERANCE PAY

Severance pay is not required under any circumstances; however, it is a common business practice when reducing staff. Firms vary in the amount of notice given or severance paid; sometimes this amount is determined based on years of service, such as one week's pay for every year of service. Severance pay can also be used when a firm comes to a mutual termination agreement with an employee. Many times this can defuse a tense situation and help a former employee move on.

It is not recommended that firms have a formally stated severance pay policy. Rather, such policies should be determined on a case-by-case basis. Having a policy and standard severance payment practices would require filing the policy as a bona fide benefit plan under the Employment Retirement Income Security Act of 1974 (ERISA).

RETIREMENT

Retirement is a complicated decision for many. From a professional perspective, there are questions of motivation and fulfillment. From a personal perspective, there are issues of personal vitality and priorities. From a financial perspective, there are questions of costs and benefits. The needs and desires of the firm itself must also be considered.

If an employee wants to retire, the firm should help smooth this transition. It is best to allow plenty of time to calculate how much income will be available under any retirement plans and also to decide how to handle the transition of responsibility and expertise within the firm. For sole practitioners and those in small practices with only two or three principals, retirement may mean closing or selling the firm. These are, of course, major transitions and need to be considered long in advance of the actual day of retirement.

Many architects do not formally retire at all. They may form sole proprietorships and provide professional services in selected situations. Some take on small projects. Others seek specific roles or niches of interest to them, such as pro bono projects, public or professional service, expert witness work, or consulting in specialty areas.

► The Age Discrimination in Employment Act forbids firms with 20 or more employees from dictating a specific retirement age. Some states have similar laws. See the backgrounder, *Architects as Employers: Legal Requirements*, in *Human Resources Management* (7.1).