

## LEGAL NEWS

---

LAW OFFICE OF NANCY CHILLAG  
650-321-6796 email [www.chillag.com](http://www.chillag.com)  
Nancy Chillag & Gary Brainin, Attorneys

### MORE EMPLOYMENT LAW QUESTIONS

By Nancy A. Chillag and Gary Brainin, Attorneys

**Q:** I have an employee who I need to let go. Is there anything I should know so I don't get myself in trouble doing it?

**A:** First, you will need to give the employee his last paycheck on the same day that you let him go, including the value of any unused vacation/sick time/paid time off. When an employee quits, you have 72 hours to pay them, but when you fire or lay someone off, the final paycheck is due the same day. In either case, if you fail to provide the final check on time, the penalty is that you owe the employee's regular pay for each day the check is late, up to an additional 30 days.

If the employee has keys to the building, you should be sure to get them back. If that's not possible, you should consider changing the locks.

You may want to consider having more than one person present during the actual firing. In case there is any disagreement regarding what was said during the meeting, it often helps to have a second person's memory.

If you are considering paying severance pay, it is vital to obtain a proper legal release of any claims the employee may have against you before you make the payment. You may wish to consult with an attorney regarding the claims the employee may have and how to draft an effective release.

If the employee has any company property—tools, safety equipment, and the like—you should try to have it returned as soon as possible. Under most circumstances, you may not deduct the value of the equipment from the final paycheck.

You may want to consider having an exit interview, especially if you have a trade secret agreement with your employees. A review of the employee's continuing obligations at the end of the employment is usually more effective than an agreement that may have been signed years ago, then forgotten.

**Q:** I have employees with school-aged children. What are the rules regarding time off for school-related issues?

**A:** That depends on two things: the nature of the activity and the size of your company.

All employers are required to make reasonable accommodations to allow employees to deal with school discipline matters. In order to be eligible for this leave, the employee must be the parent or guardian of the child, must be living with the child, and must have received a written notice from the school's principal.

Employers with more than 25 employees must, in addition to the discipline leave, allow up to 40 hours per year (but not more than 8 hours per month) of time off to attend school functions. The employee must be the parent or guardian of the child, but does not need to be living with the child. The child must be in a licensed day-care center or kindergarten through 12<sup>th</sup> grade.

Visit the Law Office of Nancy A. Chillag on the web at [www.chillag.com](http://www.chillag.com). Ms. Chillag is an associate member of NTMA.