

Should Employers Stay Friendly with Former Employees?

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February 25, 2019

This is the second in a three-part series of articles on contacting former employees for business reasons. Today's article explores reasons that employers may want to maintain a positive relationship with workers post-employment. The first part discusses what to do with a returned paycheck or W-2 (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/Former-Employee-Ghosted-Returned-Check-or-W-2-.aspx) form.

Social media and other methods of online communication have made it easier than ever to keep in touch with former employees—and there are good reasons why businesses may want to stay in contact with them and maintain positive relationships post-employment.

If an employee disappears on a former employer—which is known as a type of "ghosting"—it can be a headache for a variety of reasons, said Jennifer Betts, an attorney with Ogletree Deakins in Pittsburgh. For instance, employers may need to send required employment documents (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/Former-Employee-Ghosted-Returned-Check-or-W-2-.aspx) or try to retrieve company property. "Additionally, from an employee-relations perspective, if a high volume of employees ghost without notice or accurate forwarding information, it may raise questions about the work environment," she noted.

With the rise of social media (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/pages/who-owns-social-media-accounts-when-employees-leave.aspx) and employees' ability to openly critique their employers (www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/glassdoor-recruit-indeed-acquisition-mean-hr-shrm.aspx) on the Internet, everyone is now a potential target for bad press and critical reviews, said Eric Stevens and Rachel Rosenblatt, attorneys with Littler in Nashville, Tenn., in a joint statement. "As a result, it can often be in the best interest of an employer to maintain, when possible, a cordial post-employment relationship."

Retrieving Company Property

"The area where I see employee ghosting causing the most headaches occurs when the employee has retained something he or she shouldn't have kept," said Isabel Crosby, an attorney with DLA Piper in Dallas.

An employee may leave with a company-owned laptop, and, in some cases, the value of the computer is secondary to the information contained on it (www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/pages/when-employees-leave-make-sure-trade-secrets-are-protected.aspx). If the ghosting employee stored protected customer information, source code, or research and development reports on the computer, for example, the employer may have to report the loss to state or federal agencies or sue the former employee to ensure sensitive information is returned, she noted.

To prevent these problems, employers should consider how they will protect sensitive information and limit employees' access, from the start of employment, to only what they need to perform the job.

Additionally, former employees may owe an employer money. For instance, the employee may have been paid relocation expenses that were conditioned on remaining employed for a certain time, Betts said. Getting property back when an employee leaves without providing accurate contact information can be time-consuming and sometimes impossible, she added.

Crosby emphasized the importance of conducting effective exit interviews (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/when-employees-leave-conduct-comprehensive-exit-interviews.aspx). "They can help employers identify areas for improvement, ensure employees leave on a positive note, and ensure that both the employer and the employee understand continuing obligations."

Future Benefits

"If the employee left on good terms and was a good employee, you never know how that relationship might benefit the company down the road," noted Kristen Gallagher, an attorney with McDonald Carano in Las Vegas.

A former employee could be a brand ambassador (www.shrm.org/hr-today/news/hr-magazine/0418/pages/corporate-alumni-programs-mean-never-having-to-say-goodbye.aspx) for the company, assist in transferring knowledge to workers who are taking over responsibilities and provide referrals for job openings, said Nadine Abrahams, an attorney with Jackson Lewis in Chicago.

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Additionally, maintaining a positive relationship may reduce the chances that a former employee would participate in a lawsuit against the employer. If an employee feels that he or she was mistreated, an employer might avoid a lawsuit by hearing the worker out and maintaining positive ties, Abrahams said.

Maintaining amicable relationships with former employees may also improve morale for remaining staff because it can demonstrate that the employer cares about the people who worked for the business in the past, said Marissa Mastroianni, an attorney with Cole Schotz in Hackensack, N.J. "Moreover, those amicable relationships may lead to new opportunities for the employer to grow its business, which positively affects employee relations."

Former employees may also be viable candidates for future openings.

Cutting Ties

If an employee was fired or left on bad terms, a clean break may be preferable, Gallagher said. Many times, a severance agreement will include a provision stating that the employee is not eligible for rehire, and in those circumstances, cutting ties makes the most sense, she noted.

"Each separation is unique and should be analyzed accordingly," Mastroianni said. If the former employee was discharged for misconduct, the employer may not want to stay in touch. While the employer still should ask for the employee's most recent contact information to send the final paycheck, COBRA information and the W-2 form, the employer may want to distance itself from the employee in case of a possible wrongful discharge lawsuit, she added.

"The end of an employment relationship is often complicated—like a breakup," Stevens and Rosenblatt said. "After all, employees and businesses are made up of people who have emotions, dreams, goals and personal lives. If you have a persistent problem employee and the relationship has soured past the point of rehabilitation, it is often in everyone's best interests to make a clean break."

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