SECTION 7

Terminations
(Normally the Fourth Offense)
Normally the fourth step in the progressive discipline process. This section clarifies the role of terminations and how to properly utilize it.¹

³For Bargaining Unit employees – the process outlined by contract would prevail.

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2. Approval requirements prior to termination
   - No “on-the-spot” terminations
   - In all cases of involuntary termination – John Himsel, 832-409-9676 or 713-263-5498 must be contacted in advance for explicit agreement prior to termination

   A. A memo must be created for John Himsel, similar to the one attached at the end of this section and on the Zone under Manager Tools - Counseling and Corrective Action.
   B. The HRBP is to email the memo and supporting documents.
   C. John Himsel will explicitly approve or offer additional requirements which must be followed prior to termination.
   D. Goodman paid temporaries are covered under this process, Agency paid temporaries are not.

3. Additional incidents requiring termination
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   B. After Employee has acculated six absent occurrences or eight tardy occurrences in a rolling 12 month period.

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1. DEFINITION
AND
OVERVIEW

Termination is normally the final step in disciplinary action. It normally occurs when the disciplinary process has failed to bring about a positive change in the employee’s behavior following Verbal, Written, and Final Written Warning. Termination may also occur in those instances in which a single violation of conduct dictates that lesser forms of discipline would be inappropriate. Handled correctly, the employee will not be surprised by the action. Poorly handled terminations can result in claims of discrimination, lost unemployment claims, poor morale, and other unpleasant side effects.

2. APPROVAL
REQUIREMENTS
PRIOR TO
TERMINATION

No employee is to be terminated on the spot. In the event a supervisor feels an employee’s actions justify termination of employment, he/she may remove the employee from the work environment by way of suspension pending investigation. Discussion with the HRBP is advised prior to suspension pending investigation.

Approval from John Himsel, Sr. Director, Human Resources required prior to involuntary termination.

Goodman has a long standing requirement that any involuntary termination requires the explicit, prior approval from a designated senior HR executive. Effective May 1, 2018, that designated individual is John Himsel, John.M.Himsel@goodmanmfg.com / cell 832-409-9676 office 713-263-5498.

Purpose and applicability - This single point of contact ensures consistency and uniform application of termination related processes. It is designed to protect the interests of all involved – employees, the manager, and the company. The requirement is universal, being applicable at all company locations, departments, and job levels, whether or not represented by a bargaining unit.

Contacting John Himsel - To obtain agreement for a termination, the following is required:

A. HRBP to create (or have employee’s Manager create) a memo for John Himsel, similar to the one attached at the end of this section and on the Zone under Manager Tools - Counseling and Corrective Action.

B. The HRBP is to email the memo and supporting documents. A phone call may be required for clarification. HRBPs have this contact information.

C. John Himsel will explicitly approve or offer additional requirements which must be followed prior to termination.

*Note! By policy, final authority to terminate employment for involuntary reasons is made only by John Himsel, upon recommendation by local management and the Director, HR with responsibility for the Business Unit in question. It is therefore incumbent on management to present a compelling case for termination. If that is not possible in the case at hand, there will be no termination.
D. Clarifications regarding temporaries.
   
a. Agency paid temporaries: Are not covered by this process.
   
b. Goodman paid temporaries: Are covered under this process.
   One additional note concerning Goodman paid temporaries: In the event a Goodman paid temporary is hired for X weeks, at the end of which it is known that they will no longer be a temp and released - that is not a disciplinary issue and permission to end the assignment is not required from John Himsel. However, if the assignment ends due to performance, behavior, or what for a Goodman employee would be a violation of some sort, then John Himsel must be contacted, in advance.

3. ADDITIONAL INCIDENTS REQUIRING TERMINATION

A. If Employee has received two Final Written Warnings. In keeping with policy Section 12 – “Conduct & Progressive Discipline,” two Final Written Warnings for attendance within a 24 month period will result in termination of employment.

B. As outlined in Section 12 - “Conduct & Progressive Discipline,” Termination will result when an Employee has accumulated six absent occurrences or eight tardy occurrences in a rolling 12 month period.

In either case, an appropriate memo to John Himsel remains necessary for file.

4. BEFORE RECOMMENDING TERMINATION

Before termination is recommended, specific circumstances surrounding the event(s) in question and the employee involved must be reviewed in detail. Managers must ensure there is a sense of fairness with disciplinary action and the law is complied with. Any termination should include research into past relevant and current warnings, past precedence, how others were handled in similar offenses, whether performance reviews complement a possible termination, the employee’s length of service, and other factors on the following checklist, a copy of which is also located on the Zone under Manager Tools – “Counseling and Corrective Action.”
5. PRE-TERMINATION CHECKLIST

The following is for reference for those contemplating terminating a subordinate’s employment. A copy of this is also on the Zone under Manager Tools – “Counseling and Corrective Action.”

☐ Were performance standards and/or conduct violation documented and understood? Are they reasonable?

☐ Have those standards been applied and enforced consistently and objectively?

☐ Is the job description current and active?

☐ Have performance appraisals been conducted regularly? Do they support the decision?

☐ Is full documentation available regarding past coaching/counseling, warnings or action? Is all information relevant, current and appropriate?

☐ Is the current decision documented? Is it in line with stated policies and procedures? Is it reasonable?

☐ Was misconduct investigated completely? What witnesses and evidence are there?

☐ Was discipline progressive? If not, why?

☐ Did the employee have a chance to correct the deficiency or to define his/her actions?

☐ Did the company provide adequate assistance, accommodation, time, and training?

☐ Have past good conduct, performance or longevity been considered?

☐ Could company policies, practices, or employee handbook be viewed as promissory or as a contract? Do they limit the scope of action?

☐ Could the decision be viewed as retaliation?

☐ Have the employee’s rights, dignity, and privacy been respected?

☐ Is the employee a member of a protected group? If so, could the decision be viewed as discriminatory?

☐ Have all applicable state laws and regulations been followed?

☐ Has the decision been reviewed by the Human Resources Business Partner and other appropriate management?

☐ Is there any satisfactory alternative to termination?

☐ Is a signed copy of the employee handbook receipt acknowledgment form on file?

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6. TIMING

Termination is to be conducted without undue delay. In the event an employee’s behavior or performance is such that termination is the appropriate thing to do, the employee should not be allowed to work once the decision is made. As soon as the decision is made to terminate, the employee should be notified quickly. As a matter of policy, terminations should be completed no later than the day following the transgression unless there are extenuating circumstances (employee unreachable, investigation not completed, manager out of town, etc.).

Often, following an investigation in which a decision has been made to terminate employment he/she will be called in after a suspension. In this case, the employee should not be allowed to go to work even for a short period. To allow an employee to work after it’s determined he/she will be terminated raises the question “if his/her performance was so bad, or behavior so egregious – why did the company allow the employee to continue working?” In those situations where an employee is to be terminated, it is preferable to either have the employee come in once the manager(s) handling the termination arrives at work, or they should arrange to come in early. Do not allow the employee undue exposure to others or provide the opportunity for sabotage, theft, etc.

As explored in more depth within Appendix 2 “Inquiries about the Terminated…” the terminated employee must always be allowed to retain their dignity, and they do have a right to privacy.

7. BEFORE NOTIFYING THE EMPLOYEE

Once approval has been granted to terminate the employee:

A. Make an outline or agenda of the major points you plan to cover in the meeting.

B. Have a fellow manager in the room as you inform the employee of the termination. The HRBP or his/her appointed disignee should be present.

C. Ask the employee to come to your office, a conference room or some other private area.
8. DELIVERING THE MESSAGE

In most cases, you should inform the employee in person that he/she is being terminated. Rarely, such as when the real possibility of workplace might violence, it may be best to communicate the decision by phone. Never text, email, or deliver the message through others. It is acceptable to communicate a time for a personal discussion via phone conference.

Refer to the following suggested agenda:

A. Initiating the Meeting
   Should be less than 15 seconds and serious in nature –
   a. “Come in and have a seat.”
   b. The message should be clear and to the point.

B. What should be said:
   a. The employee is to be told the specific action or behavior that led up to this, meeting, including a recap of any contributing warnings. Always refer to documentation during this meeting, and do not get into a debate over specific issues. Often such debate is designed to have you rethink your position or delay the message.

   b. Do not add unrelated issues to the termination. Informing an employee that his/her termination might also be related to personality, suspicion of past wrong doing, or their quality of work is poor anyway, or etc. will add confusion, and can work against you should the termination be appealed – internally or externally.

   c. Here is a sample message that is acceptable….

   “Over the course of the last three months, you and I have had six coaching and counseling sessions for poor quality. Five weeks ago, your behavior forced me to give you a Verbal Warning. We have since discussed the fact that your error rate remained twice as high as it should be and I gave you a Written Warning on (date) and later a Final Written Warning on (date) for the same issue.

   Despite all these warnings, there has been no appreciable improvement and yesterday your work resulted in yet more re-work being necessary. As stated in your last warning, on date, “additional infractions may result in additional disciplinary action up to and including termination of employment.” Your actions have left the company with no recourse but to terminate you from employment effective immediately.

   Just so you know, this issue, as well as the supporting evidence was discussed with management.

   It may be necessary to make an announcement after your departure. You have a right to confidentiality, so be aware that the reason for your leaving will not be communicated.
Some people such as those in HR, certain managers, payroll, and etc. may be provided additional detail on a need to know basis only. If you choose to say anything, of course that is your business.”

9. NO ALLOWANCE FOR SEVERANCE PAY

There is no allowance for severance pay. Should you be asked about it, consider starting the following:

“There is no severance pay for terminations. The important thing now is to focus on the future. You have a final check and some benefits coming to you including (vacation pay?) and your eligibility for COBRA insurance.”

10. DEPARTURE PROCEDURES

A. When they will leave (Consider that immediately is best). You should decide whether or not the ex-employee should be escorted off the property. If so, do so with respect and preserve the employee’s dignity.

B. Exit checklist return of company property, etc.)

a. Personal Property - Does he/she have personal property at work? If so, should they be collected for him/her or is it best to have the ex-employee enter the operation under supervision? In any case, do not have the possessions pre-collected at the time of the termination.) Do not get into an argument over whether a ruler, stapler, or other item of relatively low value was brought from home.

b. Company Property - What must be returned (ID badge, keys/access cards, tools, computer and peripherals, passwords, company cell phones, Purchasing Card, etc.)

C. What will be said to others after departure?
Consider stating as follows:

“As far as other employees are concerned, it may be necessary to announce that you are no longer with the company, but no other information would be released. Information beyond that is confidential between the company and the ex-employee.”

“Should we get a call from another employer I want you to know that our policy is to refer all such calls to Equifax. Equifax is a company Goodman has entered into an agreement with to provide references. Policy is to provide only dates of employment and job title, and only in writing. Equifax will also confirm salary base pay and number of hours worked in a week. Reason for leaving, rehire status, etc. will not be discussed.”

For details refer to Appendix 2 “Inquiries about the Terminated, References, and
11. BENEFIT INFORMATION UPON SEPARATION

Those leaving employment want to know about benefits available to them. The sheet that follows this section entitled “Benefit Information upon Separation” covers typical questions regarding the date medical coverage stops, obtaining Cobra coverage, 401-k details, and etc. Within a few days of being notified of a termination, this is the sheet that Goodman Corporate Benefits will send to the ex-employee. You should be familiar with its contents, and a copy is included at the back of this section, and in the Zone under Manager Tools – “Counseling and Corrective Action.”
Benefit Information upon Separation - (all coverage ends last day worked)

**Medical, Dental, Vision** — current benefit coverage can be continued for up to 18 months through COBRA. However, you will pay the full costs of the benefits. Within 30 days of separation, you will receive a COBRA election form and a certificate of coverage from CONEXIS, the third party vendor for Goodman. The election form will list the plans available and the MONTHLY premium. COBRA must be elected within 60 days of the separation date and the initial premium due must be made within 45 days after the election. Once COBRA is elected and all premiums paid, the coverage will be reinstated back to the last day worked. If you incur expenses/claims during the election period, you can then file a claim form for reimbursement.

**Before electing COBRA, you should consider exploring the individual medical plans available through the National exchange program as they may be less expensive than COBRA. For more information, go to www.healthcare.gov.**

**Flexible Spending Accounts** — can be continued by making post-tax contributions by check to Goodman. This will extend the term date for which claims can be submitted. Expenses incurred before the separation date can be submitted up to the total balance of the flexible spending account as long as they were incurred prior to the term date. If the plan has paid out more than the amount you’ve contributed to date, you do not have to reimburse the company after separation. **All claims must be submitted within 90 days of the separation date and the flex payment card will no longer be eligible for use after separation.**

**Health Savings Accounts** — you can continue spending the balance of your HSA on qualified medical expenses after you leave the Company. However, you can only continue making contributions during the period you elect COBRA. You can leave your account with Cigna Bank in the event you enroll in another employer’s high deductible plan or consolidate the funds into a new HSA account. For more information, contact the number on the back of your ID cards.

**Voluntary Benefits** — Metlife CI, Accident and Legal; Life Insurance & Identity Theft — can be continued after separation as individual policies. If you are enrolled in any of these benefits, you will receive the forms necessary to convert the policies directly with the insurance carriers. **EXCEPTION: If you want to convert either the Company-paid or Voluntary term life insurance, you will need contact the HR Shared Services to request a conversion form.**

**Purchasing Power** — Purchasing Power will be notified of your term date and will change your payment method to the alternate account you set up when you made the first purchase.

**Metlife Home & Auto** — Metlife will be notified of your term date but you will need to contact them directly to set up a self-pay account. The number for Metlife is 1-877-638-7515.

**401(k)** — Once your separation date has been entered into the Wells Fargo system, you can either withdraw the funds or rollover the amount into an IRA or other employer-sponsored 401(k) plan. Since the data is fed electronically, it can take up to fourteen days for a term date to be passed from Goodman to Wells Fargo. Once the system has been updated, you can either go online to www.wellsfargo.com or call 1-800-728-3123 for additional assistance. If needed, Wells Fargo has an IRA product that can be used rather than taking a distribution. **Zone Access** — available for up to 180 days from the separation date. During this time, you should print paystubs and W-2’s for future reference. Also keep in mind to change your address if needed to ensure you receive the next year’s W-2 without delay. If you need to change your address after 180 days, you’ll need to HR Shared Services for further assistance. If you have any additional benefit-related questions or need further assistance, please feel free to call or send an email to the HR Shared Services team, see below. Thank you.

**HR Shared Services (713) 346-6350 HRServices@Daikincomfort.com**
12. FINAL PAYCHECKS

Some states require immediate delivery of final paychecks. Refer to Appendix 4 regarding any special considerations regarding delivery of final paychecks. In the event an employee works in one state and lives in another, the provision applicable to the State requiring the faster turnaround time on paychecks should be observed.

13. CLOSING THE MESSAGE DELIVERY MEETING

Consider closing the meeting as follows:

“I think we’ve discussed everything we need to discuss. I wish you well in your future endeavors.”

Pause and be ready to listen after each step. In the case of a heated meeting, it is advisable to prepare a summary of the discussion.

14. ADDITIONAL ISSUES TO CONSIDER

A. Though delivering the termination message is not pleasant, it is best done in person. Whatever the employee did, he/she deserves to be treated with dignity. Additionally, discussion will often get the employee to understand that their own behavior or performance led to the termination. This act alone will usually result in the employee focusing inwardly for the reason of his/her termination rather than blaming it on you, the Manager, or the company.

B. On rare occasions, such as when there is concern for possible workplace violence, the termination could be handled by phone. It is also understood that traveling to meet a remote employee for the purpose of terminating their employment may not seem practical. Flying someone in for the purpose of terminating them may result in getting company property back quicker, but consideration should be given for the insensitive nature of such an act. Regardless, if the termination message must be delivered by
phone – the message must be delivered first person to the employee being terminated, never through an intermediary or on voice mail.

C. DO…

- Respond to “why”
- Stay calm
- Keep breathing
- Stay on track
- Use “I” or “we”

D. DON’T…

- Beat around the bush
- Argue or advise
- Talk too much
- Get bogged down in the past
- Disagree with the employee’s reaction
- Suggest the termination was someone else’s idea
- Agree to re-review the decision
- Introduce additional or other reasons for the termination
- Sabotage the decision
- Lose your temper
- Refer to protected categories
15. SUGGESTED RESPONSES TO POSSIBLE QUESTIONS

“If you fire me I’ll call OSHA.”
“You can call anybody you like but your situation is well documented and does not change the facts in this matter.”

“This is a rotten company and you are the worst manager I’ve ever had.”
“I understand that you feel angry and this is a difficult situation but personal attacks won’t help.”

“Lots of people here have done the same thing and they don’t get fired.”
“Everyone here is held to the same standards. We can’t be concerned in this meeting with others.”

“I have a family to support.”
“That’s a legitimate concern and I regret that your behavior has led to this.”

“Isn’t there another position for me?”
“We looked at all the options before we made this decision. There is no other position we can offer you.”

“Please give me one more chance.”
“I’m sorry; the decision is final. I’d like to explain what the arrangements are.”

“You never liked me”
“I’m sorry that you believe that; however; this decision won’t change.”

“It won’t happen again. I’ve had personal problems.”
“We’ve waited as long as we could Afford to. The decision is final.”

You are only doing this because I am disabled.”
“This has nothing to do with anything other than your performance.”

“I’ll get you for this.”
“Threatening me won’t help. I’d hate to see you do anything that would cause you more trouble.”

“I want my attorney here.”
“After you leave you can contact anyone you like, but this meeting is not open to others.”

*Do not antagonize. You can express regret that the employee’s performance or behavior has led to this. There is nothing to gain from an escalated situation.

Your best course of action is to be factual and non-emotional. Maintain control.
16. SAMPLE MEMO TO OBTAIN PRIOR APPROVAL FOR TERMINATION Follows (REQUIRED)

A sample memo to John Himsel follows. The purpose of this document is to establish the need for termination. This document is also located on the Zone under Manager Tools – “Counseling and Corrective Action.”
DATE: May 28, 2018

FROM: HRBP (or other manager)

TO: John Himsel

RE: Time Sensitive – Pending Termination: Tardiness in keeping with Progressive Discipline

Name,

In keeping with policy, local management name/title, the Business Unit head - name/title, the HRBP/name (if not drafting the memo) and I are recommending immediate termination of employment for employee XYZ.

We have coached, counseled, issued Verbal, Written, and Final Written Warnings in keeping with policy, and still he/she was tardy again on date. FYI – on the date he/she came in tardy again, and as we had consistently adhered to policy, we did not allow him/her to clock in or begin work. We did inform employee of the serious nature of this tardiness as he/she had received progressive warnings, with the last reading “future incidents of tardiness may result in termination of employment without additional notice.” Despite having received a Final Warning only three weeks prior, we asked why he/she was late again that day. He/she stated traffic was bad, which we deem as an inadequate reason as employee had been told, in writing to leave home earlier to compensate for fluctuations in traffic. We have suspended the employee pending review of the matter on that day. This issue, and the supporting progressive warnings have been discussed in detail with the Business Unit head - name/title, and is in agreement that termination is the correct outcome of this matter.

For your review, I submit the following evidence, all of which had been previously discussed with and delivered to the employee in question. As your role in reviewing this recommendation is to also represent both the company’s and employee’s best interests, all documentation in support of our position is included. The additional benefit to this process is that should a terminated employee wish to contest the termination either internally or externally, all supporting information would be readily available.

Compelling documentation in support of this termination is

* Verbal Warning was given on XX-XX-XX. (As noted in Supervisor’s Day Timer/Calendar or etc.)
* Written Warning Letter dated XX-XX-XX. (Attachment to my email)
* Final Written Warning Letter dated XX-XX-XX. (Attachment to my email)
* Copy of Employee Handbook, Section 4 – Work Schedules (Attachment to my email)
* Copy of Employee Handbook, Section 6 – Hourly Attendance (Attachment to my email)
* Copy of Employee Handbook, Section 12 - Conduct & Progressive Discipline, which indicates the inexcusable nature of excessive tardiness (Attachment to my email)
* Copy of Claimant’s signed receipt of Employee Handbook. (Attachment to my email)

We regret the need for this action, but look forward to your timely agreement with this termination.