



Mineral



Question of the Week

October 30, 2024

Question

We're considering demoting an employee. What questions should we ask ourselves to ensure we are making the right decision?

ANSWER

Demotions, like other employment decisions, need to be handled carefully. You should ask yourself the following questions to ensure you are handling the situation fairly and legally:

- Do you have an employment contract with this employee guaranteeing them a certain position or rate of pay? If so, demotion may not be feasible.
- Why are you considering the demotion? Is it poor performance, restructuring, or by request? Do you have documentation to back up your reasoning? Having a clear, documented, legitimate business reason for the demotion is important.
- If the demotion would be due to poor performance, have you tried training and coaching to help the employee improve? Have you documented these efforts? A good faith effort to help the employee improve can be helpful if they challenge the demotion.
- How confident are you that a demotion would resolve the issue? If a demotion is not likely to be successful, would termination be more appropriate? If a demotion isn't likely to solve the problem, another option may be preferable.
- If their job duties would change, who will pick up the work the employee is no longer doing? Plan for this transition.
- How would the demotion affect the employee's pay and benefits? Be sure these changes are communicated.

- Have you discussed the potential demotion with the employee, or will this come as a surprise to them? If a surprise, be prepared for a hard conversation.
- Are you prepared to answer any questions or arguments the employee may have in response? Think ahead of time what the employee is likely to ask or say.
- Have you done demotions in the past? Would this one be done for a similar reason and in a similar manner? Inconsistent practices can open you up to discrimination claims.

This Q&A does not constitute legal advice and does not address state or local law.