

EXECUTIVE GUIDELINES FOR BOARD, MANAGEMENT, AND HR

Lawful Termination in the Philippines

The Two-Notice Rule & Just Cause Compliance



The “Why”

Must be based on established Just Causes defined in Labor Code Article 297/282.



The “How”

Must strictly adhere to the mandatory ‘Two-Notice Rule.’

Lawful & Defensible Termination

A legally valid dismissal requires 100% compliance with both substance and procedure. One cannot substitute for the other.

The Compliance Dossier

Risk-Impact Diagram



**Procedural failure nullifies valid grounds.
The process is the company's sole shield against liability.**

Valid Grounds for Dismissal

(Labor Code Article 297/282)



Insubordination

Serious misconduct or willful disobedience of lawful orders.



Dereliction

Gross and habitual neglect of duties.



Breach of Trust

Fraud or willful breach of trust.



Criminality

Commission of a crime against the employer, immediate family, or representative.



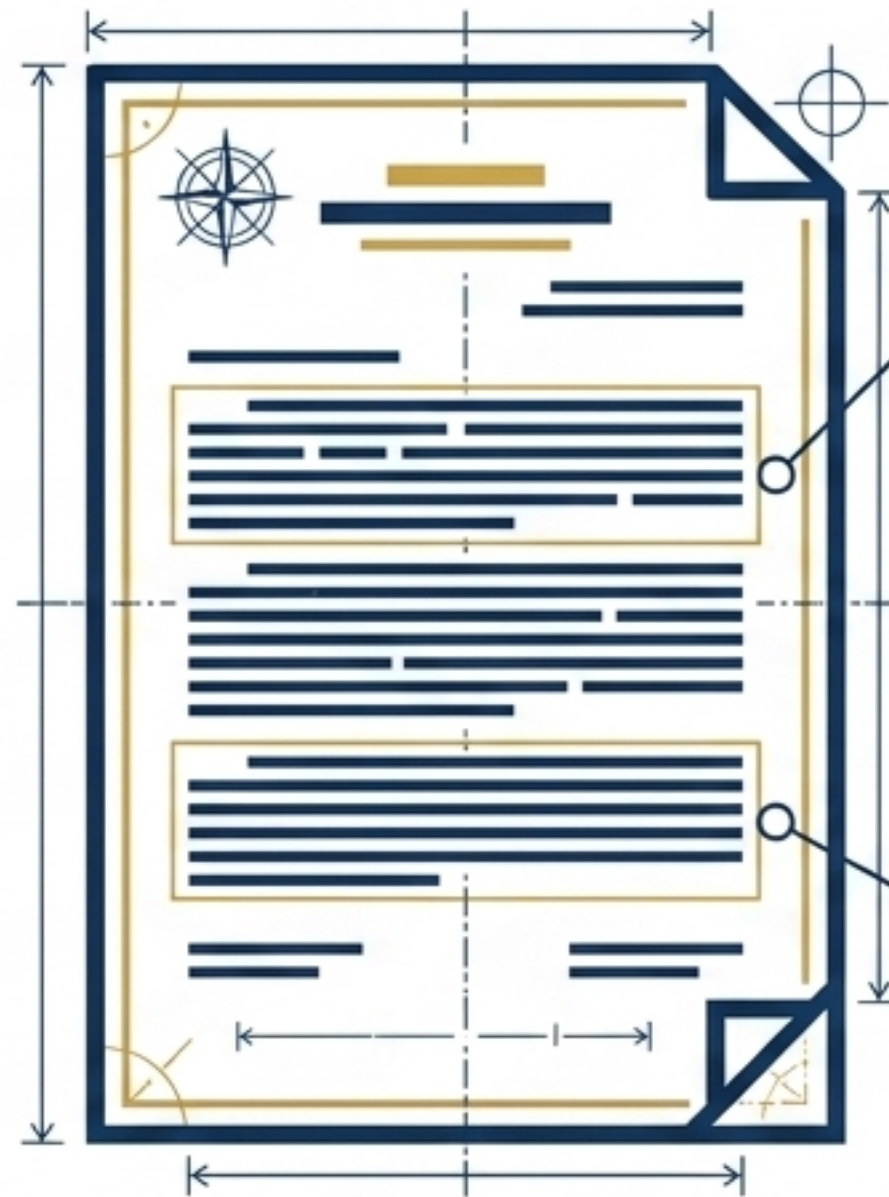
Analogous

Other analogous causes of a similar nature to the above.

The Procedural Blueprint: The Two-Notice Framework



Phase 1: Anatomy of the Notice to Explain



The Charge

Must explicitly cite the internal company policy violated AND the corresponding Labor Code (Art 297/282) grounds.

The Mandate

Must explicitly demand a written explanation from the employee.

“Ample Opportunity” Standard

Jurisprudence strictly interprets “ample/reasonable opportunity” as granting the employee at least five (5) calendar days to formulate their explanation. Issuing a decision before this window closes guarantees procedural failure.

Phase 2: The Hearing or Conference

The Employer

Presenting the company's findings and facilitating the forum.

Active Exchange

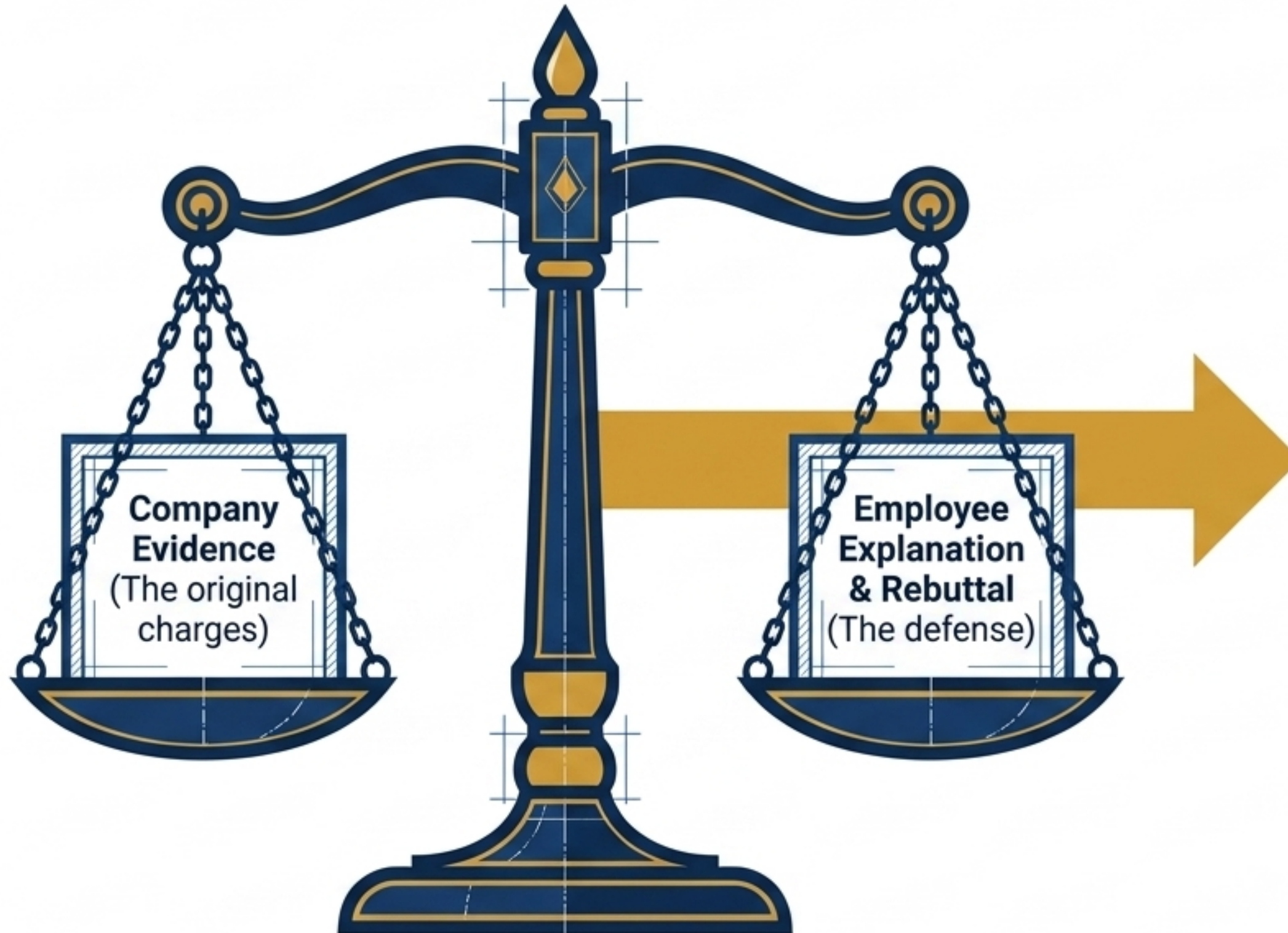
The Employee

Given the express platform to defend themselves, present their own evidence, or actively rebut the evidence against them.

Counsel (Optional)

Acknowledging the employee's fundamental right to the assistance of counsel during this phase if they choose.

Phase 3: The Notice of Decision



Second Written Notice

Core Requirements

Must be a final written notice.

Must be issued only after complete and objective consideration of all evidence.

Must clearly inform the employee of termination based purely on the established, proven grounds.

Governance Mapping: Shared Responsibility

Board & Top Management	Legal & Executive Leadership	HR Professionals
Strategic Oversight	Validation	Execution
Define corporate risk tolerance.	Review case validity.	Execute the procedural blueprint.
Oversee policy enforcement.	Validate evidence strength against Art 297/282.	Draft and serve precise written notices.
Bear ultimate financial liability for reinstatement/backwages.	Coordinate counsel during conferences.	Strictly manage the 5-calendar-day timeline. Facilitate objective hearings.

The Compliance Dossier: Executive Imperatives

1

Process is Protection

Never skip the Two-Notice Rule. Regardless of how obvious or severe the offense appears, procedural shortcuts always result in illegal dismissal.

2

Respect the Clock

The 5-calendar-day minimum for the Notice to Explain is non-negotiable. "Ample opportunity" is measured in time, not intention.

3

Document Everything

Written notices, documented conferences, and objective evidence are your sole defense against catastrophic corporate liability.