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Requesting approval for the dismissal of severely disabled people

Heruntergeladen am 07.06.2025

<https://fimportal.de/xzufi-services/8969478/L100012>

Modul	Sachverhalt
Leistungsschlüssel	99015005001000, 99015005001000
Leistungsbezeichnung I	Requesting approval for the dismissal of severely disabled people
Leistungsbezeichnung II	Requesting approval for the dismissal of severely disabled people
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Schleswig-Holstein
Freigabestatus Katalog	fachlich freigegeben (gold)
Freigabestatus Bibliothek	fachlich freigegeben (gold)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Menschen mit Behinderung (015)
Verrichtungskennung	Erteilung (001)

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SDG-Informationsbereich	Gesetzlich oder durch Rechtsverordnung geregelte Beschäftigungsbedingungen einschließlich Arbeitsstunden, bezahlter Urlaub, Urlaubsansprüche, Rechte und Pflichten in Bezug auf Überstunden, Gesundheitskontrollen, Beendigung von Verträgen, Kündigung oder Entlassungen)
Lagen Portalverbund	Beendigung von Arbeitsverhältnissen (2030800)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	15.02.2024
Fachlich freigegeben durch	Federal Ministry of Labor and Social Affairs (BMAS)
Handlungsgrundlage	https://www.gesetze-im-internet.de/sgb_9_2018/_168.html https://www.gesetze-im-internet.de/sgb_9_2018/_169.html https://www.gesetze-im-internet.de/sgb_9_2018/_170.html https://www.gesetze-im-internet.de/sgb_9_2018/_171.html https://www.gesetze-im-internet.de/sgb_9_2018/_172.html https://www.gesetze-im-internet.de/sgb_9_2018/_173.html https://www.gesetze-im-internet.de/sgb_9_2018/_174.html https://www.gesetze-im-internet.de/sgb_9_2018/_175.html
Teaser	If you wish to dismiss a severely disabled person or a disabled person with equivalent status, you must first obtain the approval of the Integration or Inclusion Office.
Volltext	<p>Severely disabled persons and persons with equivalent disabilities have special protection against dismissal. You must therefore obtain the approval of the Integration or Inclusion Office before giving notice.</p> <p>The approval is independent of the reason for the intended dismissal:</p>

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- personal reasons
- for operational reasons
- behavioral

dismissal is required. The special protection against dismissal also applies regardless of the size of your company.

You need the approval of the Integration or Inclusion Office for all types of dismissals, i.e. for

- ordinary dismissals,
- extraordinary dismissals (without notice) and
- notices of change.

In addition to the main reason for the dismissal, the Integration or Inclusion Office also examines other points before deciding whether the dismissal is legal, for example

- Size and economic situation of the company
- Fulfillment of the employment obligation

As well as the following points about the severely disabled person:

- Type and severity of the disability,
- age,
- personal circumstances
- the length of service with the company and
- the chances of finding another job on the general labor market in the event of dismissal.

Particularly in the case of dismissals for personal and behavioral reasons, the dismissal is clarified in the

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dismissal protection proceedings. Among other things, it is clarified what the company or department and the company integration team did to prevent the dismissal and whether preventative measures were taken.

In the case of extraordinary dismissals (without notice), the integration or inclusion office checks whether the dismissal is related to the severe disability. If this is not the case, it should approve the dismissal and thus open the way to the labor court.

Dismissal without the involvement of the representative body for severely disabled employees (if present in the company) is invalid. If there is no representative body for severely disabled employees in the company, there is no obligation to involve them.

Dismissal without the prior consent of the Integration or Inclusion Office is also invalid. It cannot be subsequently approved by the Integration or Inclusion Office either.

They only do not need approval if the severely disabled employee

- resigns themselves,
- has worked in your company for less than 6 months,
- has reached the age of 58 and is entitled to a severance payment or similar benefit,
- in the event of dismissal for weather-related reasons, if the employer has given a binding promise of re-employment,
- if the status as a severely disabled person could not be determined by the competent authorities at the time of termination, or

the employment relationship is terminated without notice, for example by means of a termination agreement.

Erforderliche Unterlagen

Voraussetzungen

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Kosten	
Verfahrensablauf	
Bearbeitungsdauer	<p>2 Woche(n) In the event of approval for extraordinary termination (without notice), the Integration or Inclusion Office shall decide within 2 weeks of receipt of the application. Approval is deemed to have been granted if a decision is not made within this period.</p> <p>1 Monat(e) The Integration or Inclusion Office should give its approval for ordinary termination within 1 month. To do so, the Integration or Inclusion Office must have all the information it needs to make a legally sound decision.</p>
Frist	<p>1 Monat(e) In the event of approval for ordinary termination, you must give notice of termination within 1 month of receiving approval from the Integration or Inclusion Office. After that, the approval for termination expires. You can then only seek a new ordinary termination procedure.</p> <p>In the event of approval for extraordinary termination (without notice), you must give notice of termination immediately after receiving approval from the Integration or Inclusion Office. If this does not happen, the approval of the Integration or Inclusion Office is invalid. You can then only seek a new ordinary termination procedure.</p>
weiterführende Informationen	<p>https://www.bih.de/integrationsaemter/ https://www.bih.de/integrationsaemter/medien-und-publikationen/fachlexikon/detail/kuendigungsschutz/</p>
Hinweise	
Rechtsbehelf	<ul style="list-style-type: none"> • Objection • Compulsory action before the administrative court
Kurztext	<ul style="list-style-type: none"> • Consent to the dismissal of severely disabled people <p>Issue</p> <ul style="list-style-type: none"> • Special protection against dismissal exists for severely disabled persons and persons with equivalent disabilities

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- Person is recognized as severely disabled by a pension office with a degree of disability of at least 50
- Equation with a severely disabled person with a degree of disability of 30 or 40 by the employment agency
- Employers must obtain approval from the Integration or Inclusion Office prior to dismissal
- Approval from the integration or inclusion office must be obtained regardless of the reason for dismissal
- Special protection against dismissal applies regardless of the size of the company
- no consent required:
 - for dismissals within the first 6 months of employment regardless of the duration of the probationary period,
 - if the employee resigns themselves or
 - if the employee has reached the age of 58 and is entitled to a severance payment or similar benefit
 - in the event of termination for weather-related reasons, if the employer has given a binding promise of re-employment,
 - if, at the time of termination, the employee's status as a severely disabled person could not be determined by the competent authorities.
- Responsible: competent integration or inclusion office

Ansprechpunkt

Zuständige Stelle

Your respective welfare office in accordance with the Severely Disabled Persons Act

Formulare

Ursprungsportal

Zustimmung zur Kündigung schwerbehinderter Menschen beantragen, Requesting approval for the dismissal of severely disabled people