

GONZALEZ
SABGIO
HARLAN

The GSH 60-Second Memo

March 4 , 2009

Sponsored by the GSH Employment Group



Karin R. Ziegler, Esq.

www.gshllp.com

(515) 453-8509

Want more
Information on

"Hi, sorry to leave this voicemail, but I won't be in today . . ." Absenteeism and Attendance

By: Karin R. Zeigler, Esq.

"Hi, sorry to leave this voicemail, but I won't be in today . . ." Ever hear that before? In all of the issues surrounding employment, getting people to come to work and stay at work are among the most universal problems employers are facing today. Common problems include failing to properly report the absence (i.e. leaving a voicemail, calling a co-worker rather than a supervisor) and failing to report an absence prior to the employee's start time.

Nationwide estimates show that up to **15%** of a company's payroll goes to pay for employee absence. Unplanned absence - the most costly in terms of morale, productivity, customer experience, and lost revenue - accounts for up to **65%** of that figure.

this topic?

[CLICK HERE!](#)

Many employers have dovetailed vacation and sick leave into "PTO," which has prompted the use of sick leave for reasons they were never intended to be used, and many of these same employees are showing "patterns of abuse" - violations of the organization's attendance policy on numerous occasions. In order to confidently discipline employees with attendance problems, it is best to have a clearly written policy that specifies the organization's standards and employee requirements.

Be sure to specify that discipline, up to and including termination, may result from repeated sick leave or PTO abuse and/or misuse. Keep the policy flexible, since it is virtually impossible to list every potential offense.

Examples of attendance policy violations you may want to include in the policy are:

1. Number of absences, number of times arriving late, and number of early departures, all of which exceed the attendance policy allotment;
2. Failing to get permission for leaving early or arriving late;
3. Failing to give advance notice of an absence when possible;
4. Failing to report an absence properly; and
5. Failing to submit medical certification upon request.

Determining if and why employees exploit leave policies is important. Just as an employer analyzes turnover, the organization should also review sick leave abuse trends. Is leave usage higher in a one department or under a particular supervisor? Are workplace practices or policies affecting absences? Do children's illnesses in turn lead to your employee's time off? Finding the root cause of sick leave abuse problems helps in addressing the core issues.

Methods for monitoring sick leave abuse vary from one organization to the next, but there are some common guidelines all employers can follow.

1. Recognize the sick leave abuse early and intervene before it escalates. Managers need to enforce sick leave and PTO policies and take appropriate action.
2. Find out why the employee is abusing the leave. Talk to employees who are abusing leave and see if their behavior stems from a personal problem. If you find that it does, recommend counseling or refer them to your organization's Employee Assistance Program.
3. Learn to say "no." You should not let employees get away with abusing leave policies. When you hear a ridiculous request to misuse leave, say "no." If the employee failed to "plan" for the absence in a

**BONZALEZ
SAGGIO
HARLAN**

Office Locations:

Arizona
California
Illinois
Indiana
Iowa
Nevada
New York
Ohio
Washington D.C.
Wisconsin

www.gshllp.com

circumstance where advanced notice is not unreasonable, (i.e. doctor's visits, pre-planned appointments, etc.) require advance notice.

4. Use procedures, regulations, practices and knowledge to benefit management as well as the employee. Supervisors and managers must work with employees to make certain that all employees are aware of sick leave and PTO policies and how to use them.
5. Document everything.

One note of caution: employers must grant mandatory leaves (Family and Medical Leave, Workers' Compensation Leave, ADA Leave, Religious Observances, Maternity/Paternity Leave, Jury Duty/Witness Service Leave, Military Leave, and some states have even enacted laws requiring them to give a certain amount of "small necessities" leave to perform personal business). All of these statutory mandates include reparations for discrimination, so all discipline and reward programs need to be written with an eye toward implementation in such a way as to eliminate disparate treatment for mandatory leaves.

Some types of absences are overlapping, so you must scrutinize almost every instance of employee absence to make sure that you are in compliance with the law and that the leave has been properly designated to "start the clock ticking," so to speak. For example, your company policies may require that employees use certain kinds of paid voluntary leave during their mandatory leave time.

All mandatory leave must be excused, but not all claimed mandatory leave is actually mandatory leave. As we always advise our existing clients, when in doubt, do not hesitate to pick up the phone and call us with questions. A few dollars worth of prevention is often worth tens of thousands of dollars of deductibles and back pay awards. While we are not always able to eliminate the risk completely, we can assist you in understanding, illuminating and minimizing certain risks with lawful investigation, documentation and well thought out human resources decisions.

The 60-Second Memo is a publication of Gonzalez Saggio & Harlan LLP and is intended to provide general information regarding legal issues and developments to our clients and other friends. It should not be construed as legal advice or a legal opinion on any specific facts or situations. For further information on your own situation, we encourage you to contact the author of the article or any other member of the firm. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer.