

4 tips for handling employee call-offs



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Each year the cold weather brings with it an influx of employee call-offs. Whether employees are struck with the flu or unable to traverse the snow covered roads to work, employers should be prepared to appropriately handle unexpected situations as they arise. The following suggestions will assist employers in dealing with employee call-offs:

1. **Establish Policies and Procedures**

Employers should include an attendance policy or provision in their employee handbook regarding employee call-offs. The policy and/or provision should be clearly defined and provide employees with a specific process to employ when calling off work (i.e., who to call and when). The policy should also identify what are approved/unapproved absences and state potential consequences for unapproved absences.

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2. Consistently Apply the Established Policy

An employer's call-off policy should also be uniformly enforced. Policies should be consistently applied to reduce the possibility of perceived preferential treatment or confusion. If an employee is disciplined for running afoul of an employer's policy or procedures, other employees who violate the employer's policy or procedures should receive similar discipline. Exceptions should not be made unless warranted by applicable federal or state law.

3. Ensure Proper Documentation

Employees who field employee call-offs should be trained to document the reasons for an employee's absence, if it is the employer's pattern and practice to do so. Employers should create a log to track the call-offs/absences of all of its employees. This can help employers identify trends related to employees abusing an employer's attendance policy. It can also help in relation to federal/state leave issues as discussed below.

Employers could request documentation (i.e., a doctor's note) from employees if the absence is related to illness and it is required under the employer's attendance policy. Again, however, employers should make sure that this practice is uniformly applied.

4. Determine if Federal/State Leave Laws Apply

Employers should be cognizant of employees' rights under certain federal and state laws, such as the Family Medical Leave Act (FMLA), if an employee calls off work because he or she is sick or provides information that he or she is suffering from a serious medical condition. Under the FMLA employees must follow the employer's customary requirements for call-offs. Having an established call-off procedure where employees are trained to record the reason for the call-off is crucial when an employee later claims that a call-off was FMLA related. While employees need not invoke the FMLA by

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name in order to obtain FMLA leave, they must provide sufficient information for an employer to reasonably determine whether the FMLA applies to the leave/call-off request. Indeed the regulations provide “calling in ‘sick’ without providing more information will not be considered sufficient notice to trigger an employer’s obligations under the [FMLA].” 29 CFR §825.302.

Employers should also be aware of possible obligations under the Americans with Disabilities Act (ADA) and other applicable state laws. In some instances, employers may be required to offer time off as a reasonable accommodation for a condition that qualifies as a disability. As with the FMLA, employees do not have to specifically request a “reasonable accommodation” under the ADA. In terms of content, an employee must provide the employer with enough information that, under the circumstances, the employer can be fairly said to know of both the disability and desire for an accommodation. It is not required that the employer know the specific name of the condition, or that the employee request a specific accommodation. It is the employer’s burden “to request additional information that the employer believes it needs.” Thus, if the call is for a serious or chronic medical condition, the employer may have a duty to request more information from the employee and provide an accommodation, if necessary.

All of these issues should be considered when handling employee call-offs and employee attendance issues in the New Year. Should you have any questions, don’t hesitate to call one of McDonald Hopkins’ labor and employment attorneys for guidance.



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