

Managing Employee Attendance

Post-Webinar Q&A Summary

Q: Can an employee decide whether or not to use their sick leave or PTO when absent?

In general, employees cannot be *required* to use paid sick leave for absences that qualify under local or state sick leave laws, but you may require them to use PTO for other discretionary absences. If an employee declines to use available PTO or has no qualifying reason for paid sick leave, the absence may be considered unpaid.

Best Practice: Maintain a clear policy distinguishing *qualifying sick leave* (protected by law) from *personal or discretionary absences*. Communicate that excessive or unexcused absences, especially those affecting operations, may lead to disciplinary action.

Sample Policy:

Unpaid or discretionary absences not covered by law or approved in advance will be considered unexcused. Unexcused absences may be considered excessive if they disrupt operations or demonstrate a pattern of unreliability, such as frequent short-notice callouts or multiple consecutive absences without documentation.

Q: Can an employer ask what's going on when an employee is absent?

A: Employers may check on the employee's well-being in a supportive, non-intrusive way (e.g., "How are you doing?" or "Is there anything we can do to support you?"), but may not ask about specific medical conditions.

If the employee has been out three or more consecutive days for health reasons, it is appropriate to request a medical release or *fitness-for-duty* note before return to work, consistent with policy.

Q: How should small teams handle schedule changes for employees taking classes?

Employers may create an *Education Leave* policy that defines eligibility, limits, and purpose, ensuring flexibility supports business needs while encouraging professional development.

Sample Policy:

The Company supports employees pursuing education that enhances their skills or benefits the practice. Employees enrolled in an accredited program related to their current or future role may request Education Leave for required classes, labs, or exams when scheduling outside work hours is not feasible.

Q: How should an employer address attendance problems related to an employee's mental health?

A: When attendance issues stem from a medical or mental health condition, initiate a private, interactive dialogue with the employee. The goal is to understand whether a reasonable accommodation can help them meet attendance and performance expectations.

Maintain confidentiality under the ADA and applicable state laws (such as FEHA in California).

While you must consider accommodations, employees are still responsible for maintaining reliable attendance and meeting essential job functions.

Q: What if an employee blames mistakes or poor performance on their mental health diagnosis?

A: Employers should remain empathetic and explore whether a reasonable accommodation may assist the employee in performing essential duties. However, a diagnosis does not excuse ongoing performance or conduct issues. If performance remains below standard after support or accommodation, the employer can proceed with corrective measures consistent with policy.

Q: What are examples of holding employees accountable for attendance issues?

A progressive discipline structure provides fairness and documentation:

1. Verbal warning – Reinforce attendance expectations and offer coaching.
2. Written warning – Outline required improvement within a set timeframe (e.g., 30–60 days).
3. Final warning or suspension – Indicate the next step may be termination if issues persist.
4. Termination – Consider only after prior steps and consistent documentation.

Q: What if an employee uses sick leave but we later learn they were at a theme park or similar activity?

A: First, consider how the information was obtained, privacy matters. Unless there is direct, verifiable evidence of dishonesty or abuse, avoid assumptions. Employees are entitled to use sick leave for mental health or preventive care, and occasionally plans may change once they begin feeling better.

Treat the situation as a coaching opportunity rather than a disciplinary one, reinforcing transparency and policy clarity.

Sample Policy:

Paid sick leave may be used for the employee's or a family member's illness, injury, or preventive care, including mental health needs. Personal time off for non-covered reasons should be requested separately and approved in advance.

Q: How can we respond when short staffing delays our ability to approve same-day absence requests?

A: If immediate responses aren't possible, communicate expectations and empathize with the employee while maintaining operational boundaries. Acknowledge the impact absences have on the rest of the team and emphasize shared accountability.

Encouraging a culture of communication, flexibility, and mutual responsibility helps balance employee needs and business continuity.

If we can assist you with crafting a specific policy for your business or help you manage a current attendance related or other HR situation, please don't hesitate to reach out to the small business HR pros at Infinium HR

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