

## **Action on Attendance**

School districts often assume that with the advent of the Americans with Disabilities Act (ADA) and Family Medical Leave laws (FMLA/OFLA) they cannot require consistent attendance as a condition of continuing employment. This is not true. School districts and other employers CAN hold employees accountable for satisfactory attendance and can act to remove employees who have a pattern of significant absenteeism. Here's how:

- 1. Adopt a policy and administrative rule that define attendance expectations.** Because Oregon law requires school districts to provide one day of sick leave per month worked, acceptable attendance can be defined as “no more than an average of one day of absence for illness or injury per month, except such cases as major surgery, recovery from a serious accident or injury, or as a result of documented mental or physical impairment that constitutes a disability.” The policy should be provided to the association presidents prior to presentation to the school board (this is required by most contracts).
- 2. After adoption, the policy and regulation should be reviewed with all employees and a copy to them should be provided.** An easy way to do this is to include the policy and regulation in an employee handbook and have each supervisor specifically review the policy with employees at the state of the new school year, or at the next staff meeting after adoption.
- 3. Include attendance in every job description as a job duty or requirement.** Include the following phrase in every job description: “Maintains satisfactory attendance, as defined in District policy and regulations.”
- 4. Have every supervisor/principal review the attendance of each staff member annually.** A good time to do this is in preparation of the annual evaluation. The supervisor should maintain summaries of the year's absences and the category of absence (sick leave, family illness leave, personal leave, professional leave, etc.) in the working file and should review the year's record with the employee. Those with good records should be thanked and their positive attendance noted in the evaluation report. Those with marginal or unsatisfactory attendance should also have their attendance noted in a conference and in the evaluation report.
- 5. Have supervisors monitor employee attendance continually throughout the year.** This should at least be done to the extent of reviewing the previous year's report and the year-to-date report for any employee when it becomes apparent that absenteeism is becoming a problem. The employee should be brought in at that time, the attendance report and policy reviewed, and the employee told that he/she must improve attendance to a satisfactory level or discipline or a plan of assistance will be imposed.
- 6. Have supervisors do a monthly review of the attendance of each employee where concerns about absences have been discussed.** This will ensure that you can take prompt action in response to continued unsatisfactory attendance.

## **7. Responding to unsatisfactory attendance:**

**a. Using corrective discipline.** One option to respond to unsatisfactory attendance is to use corrective discipline. If no sustained improvement results from a warning, the employee can be brought in for possible discipline by (1) notifying the employee of need to meet to review recent attendance with the opportunity for employee to bring a representative; (2) in the meeting, provide the employee with a chance to provide any information he/she wants to have considered; (3) after the meeting, if no information from the employee mitigates the absences (e.g. serious illness or disability) write a written reprimand setting for the pattern of absenteeism, why it is a violation of district policy, and a warning that continued unsatisfactory attendance will result in additional discipline, up to and including dismissal. If this is a second occasion for such discipline, unpaid suspension may be imposed as a more severe disciplinary measure. If unsatisfactory attendance continues after a second disciplinary action, dismissal may be considered.

**b. Using a plan of assistance.** Another option to respond to unsatisfactory attendance is to use a plan of assistance. If no sustained improvement results from a warning, the employee can be brought in as discussed above to be given notice of the problem and an opportunity to respond, then the employee can be placed on a plan of assistance to help correct the deficiency of unsatisfactory attendance. The plan can be very simple and short, generally 30 to 60 calendar days. No assistance need be provided, other than monthly progress meetings at which time attendance is reviewed. The advantage of a plan of assistance is that you look at the whole period of the plan and the period prior to the plan to determine if there is a pattern of unsatisfactory attendance. With progressive discipline, it is often more difficult to judge whether today's sick leave usage (the second this month, for example), is the "straw that breaks the camel's back.

**i. Meeting at the end of the plan.** When the period of the plan of assistance is completed, a meeting should be held to review attendance. Often it will be best to extend the plan for another 30-60 days, even if attendance was satisfactory during the period of the plan, in order to determine if the employee can sustain the improved attendance. Even if attendance is unsatisfactory or marginal, it may be wise to extend the plan for an additional 30-60 days after a written warning that the employee is not satisfactorily complying with the requirements of the plan.

**ii. Recommending dismissal.** If a pattern of absenteeism persists despite warnings of consequences and statements of possible dismissal if correction does not occur, then at the end of a plan of assistance (or extended plan), the supervisor should recommend dismissal to the superintendent or designee.

**8. Absences due to serious injury, possible disability, or caring for sick family member:** When an employee claims absences are due to a serious medical condition or because he/she is caring for a family member with a serious health condition, the supervisor should contact the superintendent or human resources director to determine appropriate action. Supervisors should be encouraged to contact HR when they see a block of absences or a pattern of absences from an employee that might signal FMLA/OFLA leave should be considered.