

Court Provides Guidance On Managing Employee Attendance

Publication

5.31.12

I'm going to guess that many employers or managers can immediately think of an employee they supervise who has an attendance problem. Perhaps it's someone who misses a lot of Mondays and Fridays. Or maybe it's a worker who waits until the last minute to call in sick. Or it could be an unreliable employee who never seems to be there when needed.

The person may be in violation of absence policies, but the looming question is what kind of discipline or termination is allowed by law. Well, the good news is that a federal appeals court recently issued a decision that provides a little more guidance.

The court provided some guidance, saying that employers should consider three possible factors when determining whether attendance is an essential function that cannot be compromised. First, determine whether employees are required to be at work because they are part of a team. Second, determine whether the job requires face-to-face interaction with others – like a teacher or a customer service agent? Third, determine whether the employee must be on-site to perform the job – like a computer consultant, a mechanic or a housekeeper.

If an employee's job could be done from home or after hours, or if the work could be pushed until later without much consequence, or if the work required little or no face-to-face time, an employer may need to consider letting a worker exceed attendance policy limits.

The final piece of advice from the court is that all employers should draft detailed job descriptions well before any problems arise. These job descriptions should contain a section that specifically spells out "essential" functions of the job. And if adherence to the company attendance policy and punctuality are essential, they should be listed.

This article appeared in the May 31, 2012 issue of [The Daily Journal of Commerce](#).

Related People





Richard R. Meneghello
Chief Content Officer
503.205.8044
Email