

Employee's absence requires more than a call from holistic healer

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Q *One of our employees went to a holistic healer who isn't a certified practitioner, and he advised her that she needs a week off work. He won't write her a doctor's excuse and will speak to someone only via telephone. Our attendance policy states that missing that much work requires a doctor's note. Are we violating the employee's rights if we discipline her for an attendance policy violation?*

A Generally, you would not violate the employee's rights by requiring a doctor's note for absences. However, if the employee has a disability or a serious health condition and is qualified for Family and Medical Leave Act (FMLA) leave, the issue may be more complex. Explain to the employee that she must provide a note from a doctor of medicine or osteopathy who is authorized to practice medicine by the state in which he practices. If the employee fails to provide adequate documentation after the conversation, you will be less likely to violate her rights by disciplining her for attendance issues.

Q *We have an employee who has been on military leave since 2014 and was recently released. Our policy is to pay employees on military leave 25 percent of their base pay. We know the employee has 90 days from her release date to reapply for employment and be reinstated, but are we required to continue to pay her during the 90-day period?*

A No. If your company's policy is to pay 25 percent of an employee's base pay while she is on military leave but not after, that is fine so long as the policy is uniformly enforced. As a good rule of thumb, communicate your pay policies to employees prior to the start of military leave.

Q *Our company is moving to an unlimited paid time off (PTO) policy. Can we just eliminate employees' existing PTO balances once we make the move?*

A No Texas or federal law requires you to pay out accrued but unused leave. This matter is left to employers to specify in their policies. Thus, I recommend you review your policies. If you have no policy that states you will pay employees for accrued but unused vacation, then you may eliminate employees' existing PTO balances once you move to the unlimited PTO policy.

Q *Where do pre- and postemployment drug-testing records go? In the personnel file or in a separate medical file?*

A Drug-testing records and other medical documents should be placed in a separate file that is stored in a secure location with controlled access.

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