



How to Handle the Chronically Absent and Sick Employee

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Attendance and tardiness issues with employees are the most difficult to manage. There are very few jobs where attendance is not a key requirement. Employees who are chronically absent, late or who leave early put a drain on morale and on the workplace. However, disciplining or terminating such an employee is a very tricky issue. A variety of factors must be considered before instilling discipline.

Know your obligations under FMLA.

If an employee meets the criteria for Family and Medical Leave Act (FMLA) leave, federal law protects the employee as well as his/her job. FMLA is easily overlooked because so many employers misunderstand the various obligations. It is not the employee's obligation to ask for or even mention FMLA leave but instead the employer's obligation in certain circumstances.

Has the employee requested ADA accommodation?

The need for leave or a flexible schedule can be a reasonable accommodation under the Americans with Disabilities Act (ADA). Employees must request such an accommodation from the employer and all requests must be considered. Whether or not such a request is granted depends on many factors and each case must be analyzed on its own facts.

Create effective internal policies — and follow them.

Employers should have a written policy that addresses absenteeism and tardiness. It is crucial that employers follow policy and have consistent application of how it is administered. However, even a well-drafted and consistently applied policy does not trump FMLA and ADA considerations.

Terminating any employee is risky in today's litigious environment but the sick employee poses special problems. As with any termination of employment, good documentation and careful consideration of all factors is a key.