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- The presentation will begin shortly.
- All participants will be muted upon entry.
- Live presentations will not be recorded.
- Please use the chat feature to direct questions to “All panelists.” When submitting questions, please do not include any personal information.
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CALHR

California Leads

2021 Conference



Tools for Managing Extended Medical Leave Requests



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Introduction

This course covers some practical tips for managing extended leave requests from employees, taking into consideration employees' civil service status, the employer's reasonable accommodation obligations, and the absent without leave statute.

Disclaimer

This training and the course materials are for informational and educational purposes only and not for the purpose of providing legal advice. You should always contact an attorney to obtain advice with respect to any particular legal issue or problem.

Common Authority for Medical Leave Requests

- Leave under the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA)
- Reasonable Accommodation under the Fair Employment and Housing Act and the Americans with Disabilities Act
- Leave under Government Code section 19991.1

Other Considerations to be Cautious About

- Fitness for duty evaluations
- Absent Without Leave (AWOL) statute
- Discipline

Hypothetical

An employee is out on FMLA/CFRA leave for 12 weeks for the employee's own serious medical condition. Just prior to the expiration of his leave, the employee submits a note from his doctor stating:

"In order to recover from his surgery, employee needs an additional 2 months of leave from work."

Hypothetical Part 2

Just prior to the end of the additional two months, the employee submits a new note from his doctor that states:

“Employee’s recovery has taken longer than anticipated. He needs an additional two months of leave, after which I anticipate he will be able to return to work.”

Hypothetical Part 3

Prior to the end of the additional two months, the employee provides another note from his healthcare provider that states:

“Employee has suffered a set back in his recovery and needs an additional two months off from work.”

Hypothetical Part 4

Again, prior the end of the additional two months, the employee provides another note from his healthcare provider that states:

“Employee has suffered a significant setback and is unable to work for the next 6 months. Employee will be evaluated again in 6 months.”

Hypothetical Part 5

Assume the employee's healthcare provider responds with the following information:

- Employee may be able to return to work in 6 months but will not know for sure until evaluated at that point.
- Employee is unable to work part-time.
- Employee is unable to perform the work of any other position.

Hypothetical Part 6

You send the employee an options letter outlining the employee's options and you receive no response from the employee by the date given for them to respond.

Best Practices for Managing Leave Requests

- Always engage in the interactive process timely and in good faith
- Be proactive and stay on top of the leave request from the beginning
- Document all communications with the employee in writing
- Follow up with the employee if the employee is not responsive

Thank you!

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CalHR Legal Division is excited to inform you we are currently developing our virtual House Counsel Training programs.

Available courses will be posted on CalLearns. Stay tuned!