

Attendance Policy Tool Kit



California
Employers
Association™

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Purpose

The purpose of this toolkit is to give employers the information necessary to create an effective attendance policy for their workplace, while identifying issues they will potentially encounter in its creation, rollout and implementation.

Absenteeism has profound effects on a workforce. Lowered productivity is an obvious consequence due to being short-handed and having to reassign other workers to cover the absent employee. When unaddressed, chronic absenteeism can affect workforce morale and lead to other consequences, such as increased stress levels at the workplace and ultimately higher turnover.

A well-crafted attendance policy should **present clear expectations** to employees, reduce absenteeism, and ultimately increase productivity. When creating an attendance policy it is important for employers to understand their company's culture and their industry. [The US Bureau of Labor Statistics](#) provides statistics by industry that employers can use as a benchmark when developing their own policy.

Once employers create an attendance policy, it is important that it is **enforced equitably and consistently** throughout their workforce. Making exceptions to the written policy or using it selectively as a tool to address employees with other issues undermines its effectiveness and places the employer at risk for claims of discrimination, harassment or retaliation, among other things.

All **managers and supervisors should become familiar with the attendance policy** and the importance of applying it equitably across their workforce. If there is any disagreement with the policy once in place, it should be discussed with senior management before any change is made. If there is agreement that a change is necessary, all managers and supervisors should be informed of and trained on the change(s).

You should **make employees familiar with the expectations** regarding their attendance. Document this for future reference, either as a confirmation that the employee received training or received a copy of the attendance policy. Ideally, this would take place with new employees during the onboarding process and with existing employees when a new set of expectations/new policy is introduced or upon an update. This allows management to set a baseline for their expectations and allows employees the opportunity to ask any questions ensuring that they have a clear understanding.

Creating an Attendance Policy

Even though attendance policies can be crafted as a standalone document, they do not exist in a vacuum. Internally, a policy interacts with a company's paid time off, disciplinary and payroll policies. Externally, it must comply with laws regarding protected leaves, the Americans with Disabilities Act (ADA), California's Fair Employment and Housing Act (FEHA), and any mandatory paid sick time enacted by states or municipalities. Before addressing these topics, the organization should determine which topics it wants the policy to address. A company may look at other companies in the same industry or of similar size for guidance or may decide to

build a policy from scratch to fit their culture or management preference. In either case, the first step would be to decide what attendance topics the policy is going to address. Some of the most common topics are defined below.

Definitions

Incident

An incident is a term that can be used to count deviations from scheduled attendance. Some attendance policies use “incidents” as a method to tabulate infractions for corrective action purposes.

Absence

An absence is defined as “a state of being away or not present”. For attendance purposes, it can be seen as the failure of any employee to report to work as scheduled.

Absences can be scheduled ahead of time or unscheduled when an employee does not give prior notification to their employer that they will not be present.

No Call/No Show

No Call/No Show is a term used to describe an absence in which the employee does not give any prior notice that they will not be present at work. An attendance policy may classify an absence in most circumstances as a no call/no show if notification is not given before a set amount of time transpires from an employee’s scheduled start time.

Tardy

Tardy is defined as “a late arrival”. An attendance policy can place parameters on a tardy, such as a grace period (a limit after the start time that the employee can report to work without repercussion) or a limit on how much time transpires before a “tardy” is considered an “absence”.

Paid Sick Leave

The state of California requires employers to provide their employees with a minimum of 40 hours or 5 days of paid sick leave (whichever is greater) per 12 month period. When an employee requests to use paid sick leave and they have accrued time available, they should not be disciplined for the related incident.

Grace Period

A grace period allows employees a certain amount of time before or after the start of their shift to clock in or to arrive to their work area without being penalized. Whether any time is allowed typically depends on the organization practices and industry. For instance, in a manufacturing facility, allowing employees to arrive at their work area significantly late without repercussions can reduce efficiencies and delay start times.

Early Departure

An early departure indicates an employee has left their assigned work area, assignment or the work premises before the scheduled end of their assigned shift.

Job Abandonment

Job Abandonment describes a situation when an employee stops showing up to work without prior notice and without any indication or notification that they will return. Failure to notify the employer and not showing up (No Call/No Show) for a set period of time may be grounds for voluntary termination (or resignation) of employment. Employers should still conduct their due diligence before terminating an employee for job abandonment to make sure the reason is not legally protected, such as an emergency medical issue or time taken off with paid sick leave. If you learn the employee was out for a legally protected reason, you must reinstate their job.

Classifying Absences

The classification of an absence or incident will determine what steps, if any, the company will take. Once it is determined which attendance events are going to be monitored, the employer should decide where to categorize them. Some examples that can be used to categorize time missed include:

Scheduled vs Unscheduled

A scheduled event is a situation where the employee informed the employer that they needed to take time off or miss part of their schedule and were granted permission to do so. Examples of this include:

- A scheduled vacation
- A scheduled doctor's visit
- A leave of absence the employer was notified about.

Typically, there is no penalty for scheduled time away from work since the employer was informed and granted permission to the employee to miss time.

An unscheduled event occurs when the employee did not make arrangements ahead of time with the supervisor or manager to miss the time in question. Some examples of this are:

- Absent or late due to illness.
- Arriving late due to traffic, car trouble, personal issues, etc.

Managers and supervisors should be aware that an unscheduled absence or tardy is **not always** considered an unexcused event. The following section goes further in depth into excused, unexcused and no-fault absence classifications. For example, if the employee reported being ill, especially when the issue was unforeseeable, they likely cannot be disciplined for the incident.

Excused vs. Unexcused vs. No Fault

Excused events are those that are not subject to any penalty or corrective action. Scheduled events are excused because there was previous notification of them and they were authorized before they occurred. Additionally, whenever an employee takes a *protected absence* under the law (discussed below) you must excuse the absence, and should not count it against the employee's attendance.

There are also some unscheduled events that may qualify as excused. An example is a sudden death in the family.

If an employee does not come to work and does not give a reason why, it is acceptable for their supervisor to ask "why were you absent" to determine if the absence was legally protected. If the employee does not want to give any reason or explanation, the supervisor should not push the issue any further and classify it based on the information on hand. The discussion or supervisor's attempts to determine the reason for the absence should be documented.

If the employee shares information that could qualify them for any protection (discussed below) (illness, chronic conditions, victim of a crime, etc.) they can be referred to HR or the appropriate manager for additional help. In these cases, an employer may request some additional documentation depending on the situation. For example, if an employee misses time due to a chronic condition, an employer may refer them to Human Resources to start documentation for the appropriate protected leaves. Your employee handbook should have guidance on how an employee can initiate the process. CEA also offers a toolkit to help employers navigate the [leaves of absence](#) available to employees that includes sample forms for the documentation process. [Note: based on California DIR guidance, it is not recommended to request a doctor's note or other certification when an employee takes time off under a mandatory paid sick leave program. However, if you notice a pattern of absences, you may discuss that with the employee – if they indicate they have a health condition that may need accommodation, you may need to engage in the interactive process. Refer to our [Reasonable Accommodations Tool Kit](#).]

Unexcused events are those that may be subject to a penalty or corrective action. Unexcused events are typically those that are not protected by any local, state or federal law and were not scheduled or authorized by the employer, such as an employee oversleeping or experiencing transportation issues. An employer can categorize which instances they want to classify as unexcused, as long as they consider any protections afforded to the employees.

No Fault occurrences are used when an employer has an attendance system in place that does not classify attendance incidents as Excused or Unexcused. Typically, each employee is allowed a certain number of days off from work per year to use at their discretion. Once the allowed absences are exceeded, the employee is subject to the disciplinary process. The *No Fault* model is usually used in conjunction with a Paid Time Off or "PTO" program where sick time and other time off are grouped together.

A word of caution: No fault attendance policies may open employers to liability under the ADA and FEHA for failing to give the required leeway to reasonably accommodate an employee with disabilities or other protected leave laws, such as paid sick leave.

Tardiness vs Absence

Whenever an employer is going to track tardiness and absences differently, they need to establish the threshold that separates the two. When deciding, an employer should consider the effects of the policy as well as the issue they are trying to address. For example, if an employer determines that being more than five minutes late constitutes an absence, an employee may choose to not show up for the day if they are running late since they have already been marked absent. Conversely, if a delay of one hour dramatically affects the workplace, then an employer may consider a threshold near the 1-hour mark.

The culture of your organization will also play a hand in establishing what difference will be made between being late and being absent. There are some companies or industries that do not need a consistent start time for the day, so heavily weighing tardiness in comparison to absences may not be beneficial.

Legally Protected Absences

The federal government, the state of California and several municipalities extend leave protection to employees that attendance policies must consider. Mandatory sick leave is one example that employers must consider when classifying an absence. California Paid Sick Leave requires employers to grant their workforce a minimum of 5 days or 40 hours (whichever is greater) of paid sick leave per year. If an eligible employee elects to use available sick time for an unscheduled absence then the employer should not discipline them for the time missed. This protection could extend to situations that were recorded as unexcused absences or “No Call/No Show” if the employee did not have the ability to communicate with their employer in a timely manner.

In addition to Paid Sick Leave, there are several mandatory leaves that protect employees from adverse actions related to their attendance. Two of the most familiar are FMLA and CFRA, which allow qualifying employees to miss up to 12 weeks of work in a 12-month period either continuously or intermittently. Any time missed due to a qualifying and documented reason would not be counted as an absence or tardiness violation of the attendance policy.

Some other protected leaves that could apply to employers in California include:

- Pregnancy Disability
- Bereavement Leave
- Other Medical / Disability Leave
- Organ and Bone Marrow Donor Leave
- Crime Victims Leave
- Jury Duty Leave
- Military Service Leave
- School Appearance and Activity Leave

For a more detailed overview, refer to our [California Leave Laws Guide](#).

Many leave requirements are dependent on the size of the workforce so employers should make sure they know which ones apply to them. Once employers know which policies apply to their organization they can address them in their attendance policy, in their employee handbook, or on a separate Leave of Absence policy. CEA has put together a [comprehensive fact sheet](#) listing which employment laws and protected leaves affect employers based on the size of their workforce.

When dealing with any protected leave, it is important that employers begin the **documentation** process as soon as they are aware that time away may be necessary and examine how this will affect the employee's attendance. Once again, open communication with the employee will be beneficial in understanding what leave protections they qualify for and to establish clear expectations regarding how much time they will be away from work and the appropriate reporting requirements.

When dealing with any absence or leave with the exception of Paid Sick Leave, employees must follow the company's established absence reporting requirements to notify their manager of any time that will be missed in a timely manner or be subject to corrective action. This includes requesting a leave of absence before it begins (if practicable) using the correct forms or using the company's established absence reporting process for any unscheduled events.

Reporting Requirements

When an employer decides to establish an attendance policy, it is important that they also establish guidelines for employees to communicate any deviation from their schedule. This gives the employer the opportunity to make any possible adjustments to their workforce to make up for the missing employee. Ideally, an employee would give enough notification so that an adjustment can be made, but that is not always the case. To standardize this process, employers may take the following steps:

1. Create a guideline for how soon they want the employee to notify them. It is common to request notification before the start of the shift. Employers should be cognizant that some emergencies will arise that will not permit notification before the start of shift, such as medical emergencies, accidents, etc. so it is a good practice to note that communication should be done by a certain time "or as soon as practicable". **Please note** that an employee using available Paid Sick Leave would not be penalized for failing to meet the notification guidelines since Paid Sick Leave offers protection from discipline when used.
2. Decide how employees should notify management of an absence or tardy. There is no single way to establish this process; some companies rely on a single hotline for attendance, others have employees notify their supervisor or manager directly. There are industries in which email or text messages are ideal and in other cases a company's time and attendance program may allow employees to send messages or enter attendance themselves. Whichever method or methods are chosen it is important that employees be notified and trained.

3. Create a process for scheduling time off. This will also vary by company and industry. While some companies may use a shared calendar, email, or attendance system others may rely on a verbal request or a paper request. In most cases, it is beneficial to establish a deadline or desired deadline for submitting requests so management can plan accordingly. Be clear in your policy under which circumstances (such as 30 days' advance notice) time off may be denied.

Guidelines for Attendance Control

Corrective Action

Once an employer decides to establish an attendance policy and what incidents they want to address, the next step is to determine what disciplinary steps they will take. CEA offers a [Coaching and Discipline in the Workplace toolkit](#) that can help employers determine how they want to address undesirable behavior, as well as sample forms.

Once the attendance guidelines are established it is important that managers and supervisors enforce them consistently. As with other disciplinary issues in the workplace, documentation is important when addressing attendance. Managers and supervisors also need to understand protected absences that are not subject to corrective action. Fortunately, most occurrences are very clear cut: the employee is either at work or not, they are either at work on time or not. Using good timekeeping practices along with accurate documentation of issues simplifies the process and gives both managers and employers clear expectations.

Disciplinary measures can be triggered by events such as:

- After a certain amount of unexcused absences, late arrivals, or a combination of both.
- After a no call/no show (if they are viewed as being more serious than regular absences)
- If an employee leaves before the end of their shift without notifying their manager

Incident Forgiveness

When creating a policy, management should decide the amount of time an incident will be counted for the purpose of correction action. An incident may “drop off” an employee record after a set amount of time or remain there permanently. Many companies use a rolling calendar year when counting incidents. In other words, an incident “drops off” of a person’s attendance record 12 months after it has occurred. Others may choose to have a set date like the beginning of the calendar year, fiscal year, or the employee’s employment anniversary. Even though the incidents themselves may drop off, any write ups associated with them would remain in the employee’s personnel record.

Incident Forgiveness allows employees the chance make changes necessary to correct their attendance issues. Allowing some of the accrued incidents to drop off before triggering any corrective action recognizes their efforts while still holding them accountable.

Distribution, Training and Moving Forward

Once a company decides what elements they want to include, the next step is to formalize it into a written policy. Ideally, the policy would be simple to understand so that managers and supervisors can refer to it as needed and employees are clear on the expectations for attendance. Some organizations may require separate policies to address different workforces. For instance, a manufacturing facility may have a different expectation for the office staff, production staff and warehouse staff. The same could be true for exempt vs non-exempt employees. CEA's [attendance policy](#) template provides a starting point for companies who want to create their own attendance policy. Once the policy is crafted and reviewed, it can be rolled out to management and employees at large.

Information on leaves of absence and paid time off benefits can be included in the attendance policy, be a separate standalone document, or be addressed in the employee handbook.

Managers and Supervisors

When introducing or updating an attendance policy it is important that you train managers and supervisors to make sure they thoroughly understand it. Newly hired or promoted members of the management team should also go through training. Even though Human Resources and Payroll may own a large part of the overall process, line level supervisors and people-managers play a crucial role in its implementation. After all, they are the ones that have to deal first hand with the consequences of an attendance issue when it comes to things like coverage, production, and efficiency. Knowing what tools are available to help correct an attendance issue while it is still relatively minor can go a long way in preventing problems like low employee morale, turnover and legal action for mismanaging a protected absence or giving the appearance of retaliation, discrimination or favoritism. Line level supervisors and managers can also provide valuable feedback on the effectiveness of the policy and help suggest any updates or modifications.

Employees

Once supervisors and managers have been trained and understand the policy, employees need to be introduced to it. Some companies choose to have training sessions devoted to the attendance policy where they can introduce it thoroughly and address any concerns. The advantage of this approach is that it allows employees to ask any questions and receive clarification of the expectations before having to be addressed in a corrective action setting. By the time an infraction is committed the employee is well aware of the expectations and will be aware of the consequences before being addressed by their supervisor. At this point, supervisors can document the infraction using their existing corrective action form or create one using CEA's [Disciplinary Notice](#) template. Other companies will simply post or distribute the policy or the expectations for attendance and leave it to the employees to bring up any questions or seek clarification themselves.

Employers should choose the approach that is best for their organization considering the culture and the logistics, among other things. It is also recommended that there is documentation on the training or distribution

of the policy and the employee's understanding and agreement to abide by it, either by using a training roster or an individual acknowledgement form for each employee.

Moving Forward

Once the attendance policy has been created, introduced and put in place, management should continue to monitor its effectiveness. Chances are the policy was created to address a specific problem or concern in the workforce so the following should be examined continuously:

- Did the policy address the issue?
- Were other issues revealed that need to be addressed?
- Were there other effects, positive or negative, on employee morale?
- Does it make sense for us as a company?

A “one size fits all” solution may not always be ideal, so a company should be in tune with its workforce to monitor any issues. No matter how well an owner or manager knows their workforce and how meticulously a policy is crafted there could always be unforeseen results. It is up to the managers to interpret them and plot the best course for the company and its workforce and, like all good captains, adjust as needed along the way.