Doctor's Notes are Not Enough—Information is Power

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What can the School District Administrator do about Jane whose doctor keeps providing notes that further extend her months of time off until the next reevaluation? How long does the district need to allow Fred to stay on light duty due to his 40-pound lift restriction? How can the district deal with Chris's falling asleep during instructional time?

These situations and questions may have a familiar ring. They are examples of problematic employee medical situations where school districts find themselves in the difficult position of balancing a need for full staffing and safety with concerns about overreaching into an employee's private medical matters and medical rights. Oftentimes, these situations are further complicated by the employee presenting a cursory doctor's note that seems to control what the school district can do and require the employer to simply wait on the employee to return.

However, employers don't need to be stuck. By creating and implementing legally sound policies and practices – a process that is demonstrably non-discriminatory and non-retaliatory – for such situations, school districts can better manage employee medical situations to diminish their negative effect on the workplace. The goal of such a process is to allow a school district to obtain enough medical information to assist the district in fashioning solutions to problematic medical situations.

Step 1 – Define Who Will Manage Medical Issues. This first step requires recognition that to successfully deal with employee medical issues, teamwork is required. School districts must deal with employee medical issues consistently across its workforce to avoid liability. Best practices dictate that, to ensure consistency of treatment of employees and medical privacy under the federal and state discrimination laws, employee medical documents and communications should be handled in one place – human resources. While administrators often want to be involved in the process for a number of reasons, effective management of employee medical absences requires an understanding of federal and state human resources laws. Because human resources has the best understanding of these laws and is charged with maintaining employee personnel records, it is in the best position to ensure pertinent medical documents are maintained separately and confidentially as required under federal and state law. Additionally, limiting communication about medical issues to one person or department assures consistent treatment. Nonetheless, human resources and administrators need to collaboratively fashion solutions, because cooperation and information sharing is the key to successfully addressing employee medical issues.

Step 2 – Create Policy and Procedure to Obtain Information. Policy and procedure go hand-in-hand. Creating a process around medical absences and restrictions is a win-win for all. Policies inform employees of employer expectations related to medical absences or restrictions, and in turn, allow school districts to define a process that will provide more information and options. The most effective procedure includes implementing mandated policies required for legally protected medical absences and which allow collection of medical information outside of applicable legal protections.

School districts subject to the Family and Medical Leave Act ("FMLA") and Wisconsin's FMLA, if of sufficient size to have eligible employees, must have an FMLA policy. Combined with a disability accommodation policy, a school district can establish expectations and process that should yield more helpful information than the initial doctor's note. For medical absences that may qualify under FMLA, information gleaned from a complete medical certification can clarify the nature and extent of an employee's need for leave. Additionally, under federal and state disability laws, employers are required to enter into an interactive process when an employee seeks an accommodation (*e.g.*, additional time off or alteration of job requirements). This medical accommodation process can provide needed in-depth information about the nature and extent of an employee's medical condition, prognosis and ability to return to full duty. The information that can be collected is often more comprehensive than the FMLA certification in defining whether and how an employee will be able to return to full duty.

Step 3 – Use the Information in Decision-making. The last step in addressing the problematic employee medical situation is to use the medical information to make decisions on an employee's status. The significance of the information that can be gleaned through proper employer policies and procedures is perhaps best seen by looking back at what a school district may have learned about the employees in our starting scenarios. For example, maybe the district learns that Chris is falling asleep because of sleep apnea and needs to be placed on an altered work schedule for two weeks for equipment or medication adjustment. He is then expected to be able to return without safety issues. Fred's lifting restrictions are now permanent, so his light duty will need to end and consideration must be given to whether there is alternative employment for which he is qualified. After four month's absence, Jane's physician does not expect her to be able to return for at least six more months and the staffing shortage of teachers is severe. With this information, school districts can make decisions. Some decisions will be positive; some, much more difficult. But, the adage "information is power" applies.

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