

MANAGER'S GUIDE
QUESTIONS ON ATTENDANCE POLICY
(Revised November 2006)

1. Why have mandatory conferences been eliminated?

Conferences provided no value and often gave the employee a false sense that attendance was not really important. Scheduling a hearing sends a message that attendance is important to the company. If the local chairman or employee has information they believe the manager should have they can take the necessary steps to provide that information prior to any hearing.

2. What about FMLA layoffs?

Valid FMLA layoffs are not counted as Attendance issues. The company will work with employees who come under FMLA regulations to ensure employees understand the procedures that are to be properly and timely followed. Employees should contact their manager for further information. A separate set of questions and answers covering FMLA has been prepared and those should be referred to for guidance.

3. Was the attendance policy negotiated with the Unions?

No, it is a company policy.

4. Why is it outside of UPGRADE?

It is still a progressive policy like UPGRADE, however the nature of attendance requirements is not similar to other rule violations. Employees who have attendance problems make a conscious decision not to go to work.

5. Does the CMS list identify all persons with attendance problems and does everyone on the list have an attendance problem?

CMS runs a computer report of employees who fail to measure up to certain attendance standards. Managers may know of other employees whose work records are unacceptable and may place them on the list.

6. Are new hires covered by the Attendance Policy?

Yes. Each service unit should especially monitor new hire employees to determine whether applications for employment are to be disapproved.

7. Why is percentage availability not used?

Availability percentages are easily manipulated. For example, an employee can layoff for one hour, miss his/her turn and then mark up. CMS records then show him/her as available, even though they have avoided working and the Company has had to call an extra employee, or maybe even push the pool to fill the vacancy, thus causing extra cost and disruption of other employees' off time. This can be repeated for days on end in an attempt to camouflage a poor work record. In fact, one employee who did not work for 91 days using the layoff/mark up tactic still showed 35% availability.

8. How does the time limit for issuing charges apply in attendance cases?

Time limit rules generally require a hearing to be held within a given number of days after the Carrier has knowledge of an incident. In attendance cases, the work history is the “event”. As such, arbitration awards have held that reviewing an employee’s work and layoff history over a period of time is a not violation of the time limit rule. The last day of the work history used is the end of the “event” for which the charge will be made.

9. Is there a minimum time period that should be looked at in a hearing?

This depends on the status of the employee within the attendance policy. For “First Offense” charges, the minimum time period should be between 90 – 100 days (to correspond with available CMS records), except where the charge concerns holiday layoffs, in which event the time period needs to be long enough to encompass the 11 preceding holidays.

For subsequent offenses, the manager will want to monitor the employee over the next few weeks. If the same pattern continues, the manager could hold another hearing covering a period as short as 30 days, up to 91 days. These periods of review should not commence earlier than the date of the previous notice of discipline. Doing so will ensure there is no overlap in the periods covered. *For example: An employee is assessed “First Offense” on April 15. The following time period should start April 16 or later.*

10. What information should be entered into the hearing?

The work and layoff history of the employee and any other information that is relevant to the employee’s attendance must be entered. Of particular relevance is information showing “sharpshooting”; e.g., laying off when an assignment becomes first out and then marking up soon after the assignment leaves; making seniority moves to take advantage of rest days and avoid work; marking off in various ways in order to extend vacations. There are many other examples of abusing contractual rights and calling procedures in order to avoid work, yet appear to be “available”. This evidence should be presented.

11. How long is an attendance offense on an employee’s record?

Three years.

12. When does the three-year period start?

Since attendance is not determined by a specific event that can be dated, (like running through a switch), the date of the last assessment letter.

13. If an employee lays off LK or LS and at the hearing brings a letter of approved FMLA should the hearing be cancelled?

In most cases no. The employee did not layoff FMLA so there may be discrepancies as to what was allowed for FMLA or when it began. In addition, if an employee delayed submitting FMLA paperwork the days laid off may not be covered

under the Federal Regulations. Everything should be entered into the record to find out the what, when and why of a case, and then a decision can be made after the hearing as to whether a violation of the attendance policy occurred. (See separate FMLA Q&A's).

14. How do I handle postponement requests?

If you have a working relationship with a local chairman you may want to talk with the local chairman first and agree on a date or dates to hold an upcoming hearing(s). (Some managers and local chairmen agree to hold more than one investigation on the same day). As a general rule, one postponement should be granted for valid reasons but a specific date and time should be set for the rescheduled hearing unless an extraordinary event would require a further postponement.

15. We are frequently asked what is frequent when it comes to layoffs. How should that question be answered?

Because assignments vary so much as to the times called to work, there is no single answer. An employee who is on a supplemental board and is only called to work three times per month and lays off on call one of those times every month is laying off frequently

Perhaps a more important question is ***“How much is the employee working when compared to the amount of opportunities to work?”*** Often this question can be answered by looking at the work habits of the majority of individuals working the same pool or type of job. MTA's should be able to help develop this type of information for presentation in an investigation.

16. “Missed calls/No shows” have been added to the list of attendance events. How are missed calls to be treated?

A single missed call will be considered another event in the employee's work history and treated in the same manner as LP, LS, and LK upon review. Additionally, an employee who misses a call to avoid service and/or fails to make contact with CMS after he/she should have known the work assignment was missed could be subject to discipline under the Attendance Policy. Likewise, an employee who accepts a call for service and fails to show up for work or does not report for his/her regular assignment could be subject to discipline under the Attendance Policy.

“Missed calls” and “no show events” should be viewed as a significant failure to protect employment.