

## **ARTICLE 20 ATTENDANCE POLICY**

### **1. Why is attendance important?**

Attendance by employees is important to maintain a safe and productive work environment. Absence from work, tardiness, and early departure prevents an employee from performing his or her assigned duties and responsibilities and has a negative impact on the District's overall duty to educate District students effectively. Students cannot learn if teachers are not there to teach them. The District expects employees to be reliable and punctual in reporting for scheduled work.

### **2. What is the Attendance Policy for CTU members?**

- a) Article 20 of the CBA sets forth the Attendance Policy for CTU Members.
- b) Section 1(A) deals with the obligation of the employee to report all absences prior to the start of the work day or as soon thereafter as possible. A violation of Article 20, Section 1(A) is governed by Article 18.
- c) Section 1(B) deals with accurately reporting absences on the sick leave form contained in Appendix F. With the introduction of Work day, these forms are no longer required.
- d) The procedure for dealing with violations of Section 1(C), Absenteeism Abuse and Section 2, Tardiness/Early Departure Abuse are set forth in Article 20.
- e) Remember that absences, tardiness, and early departure are each a distinct category and any abuse of one must be addressed separately from the other two.

### **3. How are absences reported?**

- a. Employees must be informed of absence reporting procedures in writing at the beginning of each school year.
- b. The procedures need to be clear and indicate **when**, **where** and **who** to call when reporting an absence.
- c. Any change in current practice must be agreed to by you and the UCC in a written mutual agreement.

- d. Employees must report all absences prior to the start of their work time or as soon thereafter as possible.
- e. If an employee fails to report his or her absence at all he or she is considered AWOL (absent without leave) until a reasonable explanation for his/her absence is subsequently provided. This type of absence is NOT Absence Abuse. It is unprofessional conduct. Therefore, you must proceed with the procedure outlined in Article 18, Section 1, which begins with a preliminary investigation, when the employee returns.
- f. If, after reasonable efforts, you are unable to locate the employee, notify your HR partner and request an AWOL letter to be drafted and sent to the individual. Provide HR with all known addresses for the employee. If there is no response to the letter, the employee can be deemed to have constructively resigned and abandoned his/her employment.
- g. The date and reason(s) for any absence(s) must be recorded on the Employee's Time Record Form.
- h. The employee must accurately report all absences due to illness on the Employee Absence Report Form (Appendix F). Submission of this form is required by Ohio state law and the CBA.
- i. If an employee fails or refuses to complete a sick leave form, then an Article 18 preliminary investigation may be held to determine if further discipline is warranted.

#### 4. What is Absence Abuse?

- a. Absence abuse is defined as the taking of sick leave for reasons not permitted by law. Any illegal sick leave is abuse.
- b. The legal use of sick leave includes only the following in accordance with Article 21, Section 1(I):

**Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious diseases which could be communicated to other employees, and to illness, injury or death in the employee's immediate family – Ohio Revised Code – Section 124.38.**

- c. Article 21, Section 5, indicates that one's immediate family includes one's son daughter, brother, sister, mother, father, and a member of the immediate household.
- d. Pattern absence may also be an abuse of absence privileges. Pattern absence is defined as those absences which occur with repetition.
- e. There is no magical number of absences that triggers an abuse situation. It may involve a single day or a period of several days. For example, the absences could fall on a number of consecutive Mondays or every other Thursday or the day before and/or after a holiday. An abuse situation may involve both illegal use of sick leave and a pattern absence.
- f. Absence abuse is based upon the circumstances on a case by case basis.

5. **What do I do if I suspect Absence Abuse?**

- a. An effective absence abuse program is founded upon aggressive and tireless persistence in documenting absences and in following the procedures outlined below. Tolerating absences that have no apparent reasonable explanation will impede your ability to take effective and timely action later when it is truly needed. It is critical that all instances of absence must be timely documented and any suspected abuse pursued at the time it occurs. DO NOT wait to the end of the school year to catalog an employee's yearlong pattern of absence abuse.
- b. If you are not sure of the legitimacy of the use, communicate with the employee. Principals are encouraged to communicate with employees using sick leave to check on their health and welfare. If you suspect abuse, implement the procedures in Article 20, Section 1(C)(2).
- c. Absence occurrences are computed on a rolling 36-month calendar. Count only those instances occurring in the most immediate prior 36 months. You do not have to start the process over with each new school year.
- d. Absences with a legitimate reason or explanation should not be included in an investigation of abuse.
- e. There are four STEPS to follow when absence abuse is suspected and documented. To determine which STEP an employee is on, check the personnel file for any prior history of abuse. They STEPS are as follows:

## STEP ONE

### A. HOLD A CONFERENCE

1. The employee has the right to request Union representation.
2. The employee is entitled to due process.
3. Inform the employee of the alleged abuse. Absences with a legitimate reason or explanation should not be included in an investigation of abuse.
4. Provide the employee the opportunity to respond.
5. Ask the employee if there any problems he or she wishes to discuss concerning his/her absence. If the employee is reluctant to speak candidly with you, the employee may request the conference be held with your supervisor.
6. If a reasonable explanation is provided, the matter is closed.
7. If no reasonable explanation is given, issue to the employee a letter of warning that if the absence abuse continues, you will be compelled to take further disciplinary action.

### B. ISSUE A LETTER OF WARNING

1. Within **three (3) working days** after the conference is held, provide the employee with a letter that summarizes the discussion and conclusion(s) of the conference.
2. The letter should warn the employee that if absence abuse persists, disciplinary measures may be taken and that the letter will be placed in his/her personnel file.
3. Include in the letter a line for the employee's signature and the date and a statement that the signature signifies only the receipt of the letter and not necessarily agreement with its contents.
4. Ask the employee to sign it acknowledging receipt and forward the letter to the individual's personnel file
5. If the employee will not sign for the letter, note on the letter that the employee refused to sign and then sign and date your notation. Ask a witness to also sign and date your notation.

## STEP TWO

1. If continued absence abuse is suspected after a STEP ONE letter of warning has been issued, follow the same procedure outlined in Step 1 again.
2. Address only those absences that occurred since the STEP ONE conference.
3. If a reasonable explanation is provided, the matter is closed.
4. If a reasonable explanation is not provided, issue a second letter of warning but include in the letter that the conduct constitutes continued absence abuse.
5. Follow the same procedures set forth in STEP ONE concerning presentment, acknowledgment and transmittal of a copy to the employee's personnel file.
6. You may require a physician's statement at this step.

## STEP THREE

1. If continued absence abuse is suspected, you must conduct a pre-disciplinary hearing for the abuse. Since the result of the pre-disciplinary hearing may be a recommendation of a three (3) day suspension without pay, the procedure for a fact-finding hearing in Article 18, Section 1(F) should be followed.
2. Inform the employee of the alleged pattern of abuse and give him/her the opportunity to present reasons for the absences in question.
3. Address only those absences that occurred since the STEP TWO conference.
4. If no reasonable explanation is forthcoming, inform the employee that he or she is being recommended for a three-day suspension without pay.
5. Warn the employee that future unexcused absences will result in recommendations for termination.
6. The STEP THREE Pre-disciplinary Hearing Summary, which includes the warning and the recommendation for suspension, becomes part of the employee's personnel file and the same procedures set forth in STEP ONE concerning presentment, acknowledgment and transmittal of a copy to the employee's personnel file should be followed.
7. Occasionally, it may be useful to request a fitness for duty determination at this point. Work closely with your HR partner on that matter.

## **STEP FOUR**

1. Continued absences beyond the STEP THREE stage justify your consideration of termination
2. Make a recommendation for termination and a pre-termination hearing to the Deputy Chief of Human Resources following a Article 18, Section, preliminary investigation.
3. If the Deputy Chief of Human Resources concurs, the matter will be set for a pre-termination hearing to be held by the District's hearing officer.
4. You will present management's case at the pre-termination hearing.
5. Ensure you have legible copies of all the proof and evidence to support your consideration of termination.
6. Only the evidence presented at the hearing will be considered by the hearing officer in making a recommendation to Human Resources.

### **6. How is tardiness reported?**

- j. Any change in current reporting procedures must be agreed to by you and the UCC in a written mutual agreement.
- k. Employees must be informed of tardiness reporting procedures in writing.
- l. The procedures need to be clear and indicate **when, where** and **who** to call when reporting tardiness.
- m. Each employee who anticipates being tardy must inform you by telephone as early as possible.

### **7. What are Tardiness and Early Departure Abuse?**

- a. Article 9, Section 2, stipulates that a teacher will have a 440 minute work day, with the exception that schools designated as Elementary Schools are exempt from the 10 minutes unassigned time at the start of the instructional day.
- b. Article 23, Section 2(H) stipulates that full-time paraprofessionals shall work seven and three-fourths (7¾) hours per day, excluding lunch (38¾ hours per week).

- c. Unless acceptable reasons are given and proper procedures are followed, employees are expected to report to work on time at the start of the workday and to remain on job for the entire work day.
- d. Tardiness Abuse may exist if:
  - 1. An employee repeatedly is late without a reasonable excuse, and
  - 2. The tardiness recognizably interferes with the his or her performance of assigned duties, or
  - 3. The tardiness disrupts the performance of other employees' duties.
- e. Tardiness Abuse is not limited to the beginning of the school day. Being late to assignments and mandatory meetings or from lunch may also constitute abuse.
- f. Early Departure Abuse exists when an employee leaves work before the end of the prescribed work day without administrative approval.
- g. It is the employee's responsibility to make every effort to contact you and to inform you that he or she is leaving before the end of the work day.
- h. In an emergency situation:
  - 1. An employee may leave work early without administrative approval; and
  - 2. It is a teacher's responsibility to ensure his/her classes are properly supervised; and
  - 3. Upon his/her return to work, you are required to approve or disapprove the early departure.
- i. If a teacher leaves work early without ensuring his or her classes are properly supervised, this type of conduct is NOT Early Departure Abuse. It is unprofessional conduct. Therefore, you must proceed with the procedure outlined in Article 18, Section 1, which begins with a preliminary investigation for failure to properly supervise students, when the employee returns.

**8. What do I do if I suspect Tardiness or Early Departure Abuse ?**

- a. Once tardiness abuse or early departure abuse is suspected and documented, you should follow the same STEP procedures as the ones outlined above for Absence Abuse.
- b. Whether absence abuse, tardiness abuse, or early departure abuse, each type of abuse must be addressed separately.

- c. Absence abuse, tardiness abuse, and early departure abuse must also be kept separate and distinct from an Article 18 proceeding.
- d. In theory, an employee could be at STEP THREE for absence Abuse, STEP TWO for Tardiness Abuse, and STEP ONE for Early Departure Abuse.