



TMHRA WORKSHOP

EMPLOYEE RELATIONS FOR PUBLIC SAFETY

January 28-30, 2026 • Waco

Strategies to Address Misuse of Leave

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Cost Related to Absenteeism

- Normally defined as productivity loss.
- In emergency services delivery cost is divided into two categories:
 - **Loss of Productivity** - the effectiveness of productive effort. The normally associated cost.
 - **Overtime cost** – Minimum staffing requirements to address service delivery needs or contractual obligation.

Loss of Productivity + Overtime = Total Cost

What is the Productivity Cost?

The Center for Disease Control and Prevention (CDC) in January 2015 estimated productivity losses alone linked to absenteeism cost employers \$225.8 Billion annually, or \$1,685.00 per employee.

What is the Total Cost in Emergency Services?

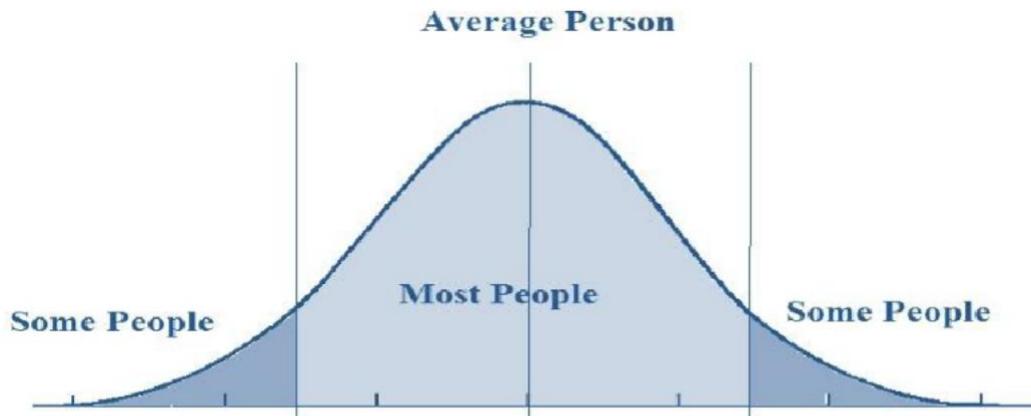
In the Texas City Fire Department with 77 employees, the total cost between Dec. 1, 2019 and Nov. 30, 2020 was **\$4,384.83** per employee or **61.6%** higher than the CDC Productivity estimate of \$1,685.00.

Why?

Minimum staffing and overtime

**WHAT ARE THE COSTS FOR YOUR
DEPARTMENTS?**

Brunacini's Rule



Excellent
10%

Good
80%

Challenging
10%

- Personnel vacancies create a vacuum.
- When an Excellent employee leaves someone will fill the void.
- When a Good employee leaves someone will fill the void.
- When a Challenging employee leaves someone will fill that void as well.
- Personnel will freely move or shift though out their career.

Definition of “Sick Leave” under Civil Service

TLGC 143.045 (b)

A firefighter or police officer may accumulate sick leave without limit and may use the leave if unable to work because of a bona fide illness. If an ill firefighter or police officer exhausts the sick leave and can conclusively prove that the illness was incurred in the performance of duties, an extension of sick leave shall be granted.

Examine your cities' sick leave policies

What do you allow to count as “sick leave”

What documentation to do you require?

Do you define what is misuse/abuse of sick leave?

FMLA is not the same as “sick leave”

Case study:

How did TCFD deal with misuse of sick leave?

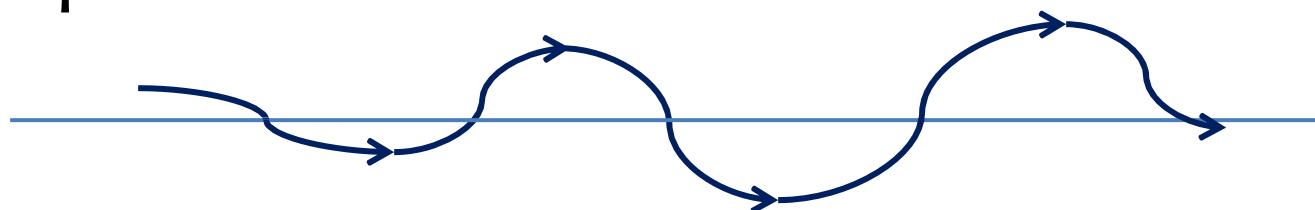
- Set a realistic Goal for usage.
- Determine Objectives necessary to reach the Goal.
- Monitor the Objectives through data analysis to determine effectiveness.
- Patience is Key
- Remember: The majority are good employees!
- Make minor adjustments rather than tossing the baby with the bath water!

Setting the Goal

- What is the acceptable annual amount of Sick Leave usage given the size of your department?
 - Understand that personnel are going to get sick.
 - Zero is not the answer.
- Include FMLA-approved Sick Leave usage in this calculation.
- **Do Not** penalize personnel for FMLA usage!!
- Do not get lost in the forest.
- Stay at tree top level.

Setting the Goal

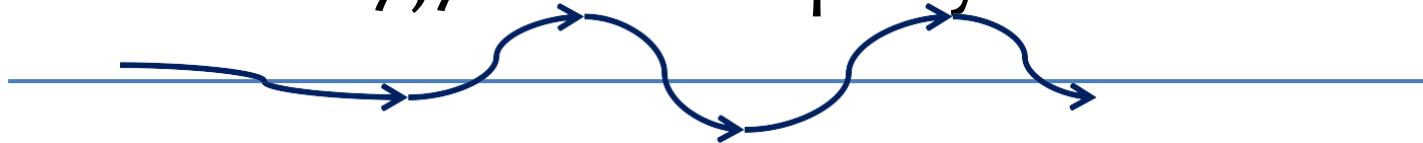
- Some employees will use none. – Reward?
- Some will use a little. – No worries.
- Some will use more. – How are they using it?
(We'll talk more about this later.)
- Remember: The GOAL is to average X amount of hours per year within the Department.



TCFD Goal

At TCFD, in 2021 the Annual Acceptable Limit was set at 100 hours per year per employee or,

7,700 hours per year.



Reward Option 1- annual payment

- Why did we calculate from Dec. 1 to Nov. 30 each year?
No bonuses for public employees, so. . .
 - Permitted the surrender of 1 personal leave day (24) hours for payment, payable on the first payday in December*, (CBA) and
 - We paid \$5 dollars per transport between Dec. 1 and Nov. 30 each year to the attending Medic payable on the first payday in December*, (CBA) and
 - *If no use of sick leave* - TCFD rewarded personnel with zero usage and no OJI incidents = 8 hours of straight pay, payable on the first payday in December*. (CBA)
 - An average of \$1,200.00* per employee: Happy Holidays!
 - Annual Expense of entire package in 2021 - \$32,500.00
 - By doing this we recognize and address the needs of the majority on the first payday in December.

Reward -Option 2- Retirement

- Civil service mandates 90 days of sick leave upon separation
- Fire suppression – 1080 hours
- Retire and collect from TMRS/pension system immediately, get \$.25 on the dollar for all sick leave accumulated over 1080 hours. (For every 96 hours you accumulate, you are paid for 24 hours.)

Objective # 1

Know your Rights as the City

Collective Bargaining or Meet & Confer

Management Rights Language

The right to manage the utilization of sick leave by employees and the right to establish and enforce the methods and processes for control and management of sick leave usage.

Know your Rights AND

If you have one of these . . .Your Goal - just got a LOT harder. It is literally up hill all the way.

ARTICLE V PREVAILING RIGHTS

All standards, privileges and working conditions enjoyed by and in effect for and with respect to the members of the Texas City Fire Department on the effective date of this agreement which are not included in this agreement shall remain unchanged for the duration of this agreement unless changed or modified by mutual consent of the Union and the City.

Objective # 2

Policy Establishment

- Establish a Policy or Standard Operating Guideline or Standard Operating Procedure.
- **Single Point of Contact when calling in sick.**
- Doctor's note required after first use of 24 hours of sick leave during the reporting period.
 - Automatic Written Reprimand for failure to provide.
- Leaving in the middle of the shift? – require to go straight to the doctor or clinic – Doctor's Note required
- Prohibit working a side job, scheduled duty day or not, or overtime until returning and working a full shift.
- Don't hesitate contacting side jobs and file Public Information Act requests for employee work schedules.

Objective # 2

Policy Establishment

- Define “Acceptable.”
- Define “Excessive.”
- Define the reward (“carrot”)

For TCFD in 2021

- Acceptable - 100 hours.
- Excessive - 144 hours.
- Carrot: Zero usage is 8 hours straight pay.
- Resets to zero at beginning of each annual cycle.
- The policy is not designed to bury people.
- Provides an opportunity to correct behavior.

OBSERVATION: If you use sick leave in the manner in which it is intended, this policy will not harm you.

Objective #3

Research and Analysis

How did TCFD get to 144?

- We determined our current amount of annual Sick Leave usage
- Looked at the past two or three years to see what usage occurred
- Examine if there were any outside factors that impacted the total
 - Major illnesses – take that number out
- We got there by first determining:
 - 1 shift per quarter (four shifts) was Acceptable
- Then, what is “Excessive”?
 - Is it five shifts? – No
- TCFD decided it was six shifts - 144 hours.

Case study

Enforcement Tool #1 - Excessive Usage Form

- At or above each 144 hours of sick leave per calendar year Example: 144 hours + 288 hours – 432 hours
 - Automatic restriction of privileges by issuing a Sick Leave Usage notification memo:
 - No Overtime
 - No Step-up
 - No shift trades
 - No outside employment - I have not used this but it's on the form
 - Effective for 90 days
 - Loss of privileges are non-appealable within Civil Service
 - VIP: What's your contract say? Know your rights!

Memorandum – Human Resources

Date:

To:

From:

RE: Sick Leave Usage Notice

Your sick leave usage for the period of December 1, 2019 through September 30, 2020 is 144 hours. This amount of sick leave use is addressed in the Sick Leave Management Plan.

Employees upon reaching (\geq) 144 hours or more per yr. (Dec. 1-Nov. 30) shall immediately be subject to the following restrictions * for 90 days as per policy. You had 144 hours of usage last year, so you will have two restrictions placed on you for this Excessive Use. The restrictions apply to you for the period of October 5, 2019 through January 3, 2020.

No overtime

No outside employment – **Not Restricted At This Time**

No Step-up – **Not Restricted At This Time**

No time trades

* as determined by the Chief or his designee

This action might have been prevented if you had approved FMLA.

Counseled & Received: _____

Date

Signature: _____

Firefighter

As Supervisor, I have counseled the above employee:

Supervisor: _____

Name

Date

Case Study **

Excessive Usage

So, how do I know when an employee
has exceeded 144 hours?

A Most Excellent Question, glad you asked!

It took me about 3 minutes per month
to make this determination.

Enforcement Tool #2 - Patterning

- Pattern is a design, structure, or configuration of a form, style, or method. . . . Right?
- Patterns can develop in a short period of time or over a long period of time.
- *The key is how to recognize there is a pattern.*
- What are we looking for and how do we know when we see it?
- U.S. Supreme Court Justice Potter Stewart famously said that he could not use words to describe pornography but, "I know it when I see it." *Same logic applies.*

Enforcement Tool #2- Patterning

- Patterning, for our purposes, is utilizing sick leave in a discernable pattern to:
 - Increase the number of days off, or
 - Used in conjunction of other forms of leave to extend a vacation, or
 - To avoid certain undesirable station/crew/work assignment, or
 - Football season, or
 - Hunting season, or
 - Weekends, or
 - Extend a Weekend.

The 1-year pattern is the easiest to identify.

- One would expect to see sick leave used consecutively, i.e. the flu or a sprained ankle.
 - These are readily discernible and justifiable, thus easily validated.
 - People are going to use sick leave – no worries.
- Singular usage combined with other forms of personal leave.
 - Lots of usage and easily discernable as well.

CONSECUTIVE USES

February, 2018						
S	M	T	W	T	F	S
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4	5	6	7	8	P*	10
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18	19	20	21	22	23	24
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May, 2018						
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20	21	22	23	24	25	V
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August, 2018						
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November, 2018						
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March, 2018						
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	B SHIFT					

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oji	V*	V*	Idd	Idd	Idd	19
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August-12						
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28	29	30	31			
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H	21	22	23	24	25	off
27	S	29	P*	31		
A SHIFT						
B SHIFT						
C SHIFT						

The multi-year pattern takes time to develop.

- This is where the Monthly Report & Sick Leave Usage forms become instrumental.
- We learn by repetition, correct?
- By issuing and saving the >144-hour usage forms the same name(s) begin appearing.
- Have an e-folder on each employee who earns one and save a copy of each notification form in the earned folder.

Case Study**

Patterns and Excessive Usage are different

These next two employees were always under the 144-hour threshold for Excessive Usage Notification, but still developed a discernible pattern.

Q: What is an unacceptable pattern of use which could then mean “misuse”?

The first employee, FF A, got noticed because of marriage

He kept appearing at social functions with his bride and was observed by a Mayor

Mayor says “I know firefighters get a lot of time off but...”

“Take a look see.”

February, 2019						
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16th/tat/barkmann/tudor/24hr;						

March, 2019						
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8th/10th/johnson, c/barkmann/24hr;

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October, 2019						
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July, 2018							
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August, 2018							
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October, 2018							
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28	29	30	31				

November, 2018							
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A SHIFT

December, 2018							
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B SHIFT

January, 2019							
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C SHIFT

February-17						
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March-17						
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April-17						
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May-17						
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July-17						
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V	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	P*H	21	22
ot	24	25	26	27	28	29
30	31					

August-17						
S	M	T	W	T	F	S
	1	2	3	4	V	
6	7	8	9	10	11	T
13	B	15	P*H	17	18	19
20	21	22	23	*OT	V	26
*ot	*OT	*OT	30	31		

September-17						
S	M	T	W	T	F	S
				1	2	
3	4	5	6	7	8	9
10	11	P*H	13	14	15	16
SL	18	19	20	T	22	23
24	25	26	27	28	29	30

October-17						
S	M	T	W	T	F	S
1	2	3	4	5	6	B
8	P*H	10	11	*OT	13	V
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November-17						
S	M	T	W	T	F	S
		1	*ot	V	4	
P*H	6	7	8	9	10	11
12	13	14	15	16	17	18
V	20	21	DT	23	24	25
26	27	28	29	30		

December-17						
S	M	T	W	T	F	S
				1	P*H	
3	4	5	6	SL	8	V
10	11	12	13	14	15	V
17	18	odtt	20	21	22	odtt
*OT	25	26	27	28	P*H	odtt
31						

January-18						
S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	MED	17	18	19	20
21	22	H	24	P*H	26	27
28	29	30	*ot			

A SHIFT

B SHIFT

C SHIFT

This employee, FF B, got noticed because he was on the same shift assignment as FF A.

- Fair Investigation and all that.
- Prior to 2019 FF B had used relatively very little sick leave during his career.
- Was completely under the radar at this time.
- However, his crew member triggered a “look see,” and

February, 2019

S	M	T	W	T	F	S
					1	2
3	4	*P	6	7	8	9
10	11	12	13	14	15	16
17	ot	19	20	21	22	23
24	25	26	27	28		

March, 2019

S	M	T	W	T	F	S
					1	2
3	*P	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	V	21	H	23
H	25	26	27	28	29	30
*P						

May, 2019

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
*ot	13	14	15	16	17	18
odt	20	21	V	23	*P	25
26	27	28	29	30	31	

August, 2019

S	M	T	W	T	F	S
				1	2	3
4	5	SL	7	OT	9	10
11	12	*P	14	15	16	17
18	19	MED	21	22	23	24
25	*ot	27	28	V	30	31

November, 2019

S	M	T	W	T	F	S
					1	*P
3	H	5	6	7	8	9
10	SL	12	13	14	OT	16
17	18	19	20	21	22	23
24	25	V	27	V	*P	30

A SHIFT

March, 2019

S	M	T	W	T	F	S
					1	2
3	*P	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	V	21	H	23
H	25	26	27	28	29	30
*P						

June, 2019

S	M	T	W	T	F	S
						1
2	3	LAB	5	6	7	OT
9	10	SL	12	13	14	15
16	17	18	19	*P	21	22
23	24	25	26	V	28	29
30						

September, 2019

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	*P	10	H	12	13	14
15	16	17	18	19	20	21
22	23	OT	25	26	SL	28
29	30					

December, 2019

S	M	T	W	T	F	S
1	2	P*	4	H	6	7
OT	*ot	H	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	*P	27	28
29	P*	31				

B SHIFT

April, 2019

S	M	T	W	T	F	S
					1	2
7	8	9	10	11	12	13
14	15	16	17	18	19	20
ot	22	23	24	H	26	*P
28	干	30				

July, 2019

S	M	T	W	T	F	S
						1
H	2	*ot	4	*ot	6	
7	V	9	V	11	12	13
14	V	16	*P	18	H	20
21	22	23	T	25	H	27
28	29	30	31			

October, 2019

S	M	T	W	T	F	S
					1	2
*P	7	V	9	10	11	*ot
H	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

January, 2020

S	M	T	W	T	F	S
					1	2
5	干	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	*P	23	24	25
P*	27	28	29	30	31	

C SHIFT

A little conversation with their Captain and one of the firefighters and ...

Eureka !!

Zero sick leave usage from either firefighter since then.

You don't have to be heavy-handed to obtain satisfactory results.

Do not get lost in the Forest.

Stay at tree top level.

Case Study **

Enforcement Tool #3

Fair Investigation/Due Process

Like or Similar Dates of Hire should accumulate nearly equal amounts of sick leave – give or take.

- FF 1 hired January 2009 1,356 hours
- FF 2 hired May 2009 2,034 hours
- FF 3 hired May 2009 2,619 hours
- FF 4 hired June 2009 1,728 hours

Fair Investigation

FF 1 hired January 2009 1,356 hours

- No FMLA Events
- One 72-hour event
- 72% singular usage
- 2 reprimands for failure to follow policy on Doctor's Note.
- 5 Excessive Usage Notifications (>144 hours).
- Two Written Warnings for Patterning (2016 & 2019).
- 1 Hostile Work Environment Complaint (2019).
- Has used 72 hours since the March 2019 Final Written Warning.
- The longer FF 1 goes not using sick leave in such a manner the better the employer's position becomes, does it not?

Fair Investigation

FF 4 hired June 2009 1,728 hours

- 1 FMLA Qualifying event – 312 hours
- 29 singular usage events – 96%
- 1 Excessive Usage Notification (>144 hours)
- Flies just under the 144 hours radar.
- FF 4 is pretty good, averages 100 hours / year and not really exhibiting a pattern – yet!
- However, due to fair investigation requirements FF 4 has just popped onto the radar screen, and
- Has earned a folder.

Another Example of Patterning

- These next two employees were patterned prior to the >144-hour Excessive Usage Notification form.
- They were identified by their crew's actions.
- The entire station assignment called in sick on a Saturday.
- What were they trying to tell us?

Firefighter 1

February-04						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	P	18	19	20	21
22	23	24	25	26	27	28
29						

March-04						
S	M	T	W	T	F	S
	1	2	3	4	5	S
7	8	9	10	11	12	13
14	P	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April-04						
S	M	T	W	T	F	S
				1	2	3
4	5	6	H	8	H	10
P	12	13	14	15	16	17
18	19	20	21	22	23	24
S	26	27	28	29	30	

May-04						
S	M	T	W	T	F	S
						1
2	3	H	5	H	7	P
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	V					

June-04							
S	M	T	W	T	F	S	S
		1	2	3	P	5	
6	7	8	S	10	11	12	
13	14	15	16	17	18	19	
B	21	22	23	24	25	26	
27	28	29	30				

July-04						
S	M	T	W	T	F	S
				P	2	3
4	5	6	7	8	9	10
11	12	13	14	V	16	V
18	V	20	21	22	23	V
25	V	27	P	29	30	31

August-04						
S	M	T	W	T	F	S
1	J**	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	H	21
H	23	P	25	26	27	28
29	30	31				

September-04						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	B
19	P	21	22	23	24	25
26	27	28	29	29		

October-04						
S	M	T	W	T	F	S
					1	2
3	4	5	S	7	8	9
10	11	12	H	14	H	16
P	18	19	20	21	V	23
24	25	26	27	28	29	30

December-04						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	P	11
12	13	14	15	16	V	18
V	20	21	22	23	V	25
V	27	V	29	30	31	

January-05						
S	M	T	W	T	F	S
						1
2	3	4	5	P	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	S
30	T(12)					
C SHIFT						

Firefighter 2

February-04						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	P	14
H	16	17	18	19	20	21
S	23	24	25	26	27	28
29						

May-04						
S	M	T	W	T	F	S
						1
2	3	P	5	6	7	H
9	10	11	12	13	14	H
16	17	18	19	20	21	H
23	24	25	26	27	28	29
30	P					

August-04						
S	M	T	W	T	F	S
1	2	3	4	5	B	7
8	9	10	11	12	13	14
V	16	17	18	19	P	21
V	23	24	25	26	27	28
V	30	31				

November-04						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	P	10	S	12	S
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

A SHIFT

March-04						
S	M	T	W	T	F	S
		1	2	3	4	5
7	8	9	10	P	12	V
H	16	17	18	19	V	
21	22	23	24	25	26	27
28	29	30	31			

June-04						
S	M	T	W	T	F	S
		1	V	3	V	5
6	7	8	S	10	11	12
V	14	15	16	17	18	19
H	21	22	23	24	25	26
P	28	29	30			

September-04						
S	M	T	W	T	F	S
		1	2	3	4	
5	6	7	8	9	10	V
12	13	14	15	P	17	V
19	20	21	22	23	24	V
26	V**	28	29	30		

December-04						
S	M	T	W	T	F	S
		1	2	3	4	
5	P	7	8	9	10	11
12	13	14	V**	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

B SHIFT

April-04						
S	M	T	W	T	F	S
					1	2
4	5	6	P	8	9	10
11	12	13	14	15	S	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July-04						
S	M	T	W	T	F	S
					B	2
4	5	S	7	8	9	10
11	12	13	14	15	16	H
18	19	20	21	22	23	P
25	26	27	28	29	30	31

October-04						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	P	14	15	16
H	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January-05						
S	M	T	W	T	F	S
						1
P	3	S	5	S	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	P
30	31					

C SHIFT

Enforcement Tool #4

Employee Calendar Spreadsheets

- Every employee has an Employee Calendar spreadsheet
- On this calendar is their assigned workdays and any type of personal leave taken is recorded on the calendar.
- It is an active spreadsheet in a secured folder.
- It is updated by Administrative Staff daily in accordance with the Company Officers Report.
- The spreadsheet contains all previous year calendars in labeled tabs. You can look at multiple years at the same time with a “mouse click.”
Also tracked leave accumulation for balancing with H.R.
-

Tool # 4- Calendaring

2020-2021 EMPLOYEE CALENDAR											
Employee No:	Employee Name:										
Date of Hire:											
Bank Days: 0											
Floating Holidays 0											
February, 2020											
S	M	T	W	T	F	S					
						1					
2	3	4	5	6	7	8					
9	10	11	12	13	14	15					
16	17	18	19	20	21	22					
23	24	25	26	27	28	29					
May, 2020											
S	M	T	W	T	F	S					
						1	2				
3	4	5	6	7	8	9					
10	11	12	13	14	15	16					
17	18	19	20	21	22	23					
24	25	26	27	28	29	30					
31											
August, 2020											
S	M	T	W	T	F	S					
						1					
2	3	4	5	6	7	8					
9	10	11	12	13	14	15					
16	17	18	19	20	21	22					
23	24	25	26	27	28	29					
30	31										
November, 2020											
S	M	T	W	T	F	S					
1	2	3	4	5	6	7					
8	9	10	11	12	13	14					
15	16	17	18	19	20	21					
22	23	24	25	26	27	28					
29	30										
December, 2020											
S	M	T	W	T	F	S					
						1	2				
6	7	8	9	10	11	12					
13	14	15	16	17	18	19					
20	21	22	23	24	25	26					
27	28	29	30	31							
January, 2021											
S	M	T	W	T	F	S					
						1	2				
3	4	5	6	7	8	9					
10	11	12	13	14	15	16					
17	18	19	20	21	22	23					
24	25	26	27	28	29	30					
31											
A SHIFT											
B SHIFT											
C SHIFT											

2020	2021	1-6 yrs = 192hr; 7-17 yrs = 240hr; 18-above=288hrs
NAME:		
ANNIVERSARY:	9/9/2018	2018
RANK:	2	Years In service 2020
EMT:	192	Vacation Hours
Pday:	3	Years In service 2021
Shift:	192	Vacation Hours
Seniority:		
BANK DAYS:		
FL HOLIDAYS:		

Month & Year	VACATION			SICK LEAVE			HOLIDAYS			COMP TIME		
	Hours	Hours	Balance	Hours	Hours	Balance	Hours	Hours	Balance	Term ed	Hours	Balance
	Earned	Taken		Earned	Taken		Earned	Taken		Earned	Taken	
Bal. Brought Fwd.			0			60			240	0		0
February			0	15		75			240	0		0
March			0	15		90			240	0		0
April			0	15		105	24		240	24		0
May			0	15		120	24		240	48		0
June			0	15		135			240	48		0
July			0	15		150	24		240	72		0
August			0	15		165			240	72		0
September			0	15		180	24		240	96		0
October			0	15		195			240	96		0
November			0	15		210	48		240	144		0
December			0	15		225	48		240	192		0
January 2021			0	15		240	48		240	240		0
			0	SL RT	0	240			240	240		0

Enforcement Tool #5

Progressive Discipline

- Excessive Usage Notification – Not really part of the process but are handy to prove employee was aware of policy.
- Written Warning – 2 warnings for pattern usage.
- Written Reprimand – 1 reprimand for pattern usage.
- Suspension – 1st suspension is 1 shift for pattern usage.
- Indefinite suspension –
 - Regular and reliable attendance is an essential function requirement.
 - Include in the Job Description.
 - Sick leave abuse is not ADA-protected

When Progressive Discipline May Not Be Required

Fraudulent usage

- Working while on sick leave, or
- Falsification of Doctor's Note, or
- Failure to cooperate with FMLA requirements, etc.

Result in Indefinite Suspension and may result in criminal prosecution/refer to DA

Strategies

- Define what is abuse/misuse (cannot measure what you cannot define)
- Awareness is key (excessive/patterning)
- Consistent (do not pick on one or two!)
- Supervisors must hold subordinates accountable and must communicate with HR!!
- Takes a lot of work but efforts will be quantifiable
- Reward employees for appropriate use
- Enforce policy through discipline
- *Abuse is not protected by ADA*



David Zacherl,
Retired

Julia Gannaway, Partner

