

Administration of Absences Without Approved Leave

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PURPOSE

Employees are expected to come to work as scheduled and complete their entire designated work shift, including mandatory overtime, unless they are absent with approval or unexpectedly absent due to a legitimate emergency. Unexcused absences, dependent upon the facts and circumstances, may subject an employee corrective action and/or discipline.

This Human Resources Bulletin provides guidance to supervisors, managers, and human resources personnel for procedures and guidelines in administering absences without approved leave.

The administration of unauthorized absences must be equitable and equally applied. The consequences, however, may vary depending upon the facts and circumstances of each situation. When discipline is being considered, decision makers should take into consideration the facts, aggravating factors, mitigating factors, and the terms of any applicable collective bargaining agreements.

DEFINITIONS

For the purposes of this policy, the following definitions apply:

“Absent Without Approved Leave” means that an employee is absent from work without notice or with notice but without authorization. This type of absence includes but is not limited to those instances when an employee properly informs the appropriate work unit personnel that he or she will be tardy for work but does not actually report to work on the scheduled workday; those instances when the employee leaves work without notice or authorization; those instances when an employee fails to return to work by the expiration date of an approved leave of absence; those instances when an employee does not report to work for a scheduled shift or shifts; those instances when an employee has abandoned his or her job; those instances when an employee is incarcerated; and those instances when an employee chooses to not report to work for any reason.

“Job Abandonment” means that an employee fails to report for work at the beginning of a scheduled workday and does not obtain authorization for the absence which continues for three or more consecutive full workdays.

“Incarcerated” means that an employee is detained in a government detention facility, such as city jail, county jail, state prison, federal prison, or any other type of detention, such as home detention, which prevents an employee from reporting to work during their scheduled workday.

“Scheduled Workday” means the scheduled hours in a workday, including mandatory overtime, designated by the employer that the employee is expected to work.

“Welfare Check” means a home visit by a local law enforcement agency made at the request of a department when an employee unexpectedly fails to report to work and cannot be contacted by conventional means. The purpose of a welfare check is to attempt to determine the health and well being of an absent employee.

PROCEDURES AND GUIDELINES

Corrective action may be taken for instances of absences without approved leave. Supervisors may utilize the following as general guidance when taking corrective action or making disciplinary determinations or recommendations in coordination with the agency's Human Resources Service Delivery Manager (HR SDM) and/or other human resources personnel concerning absences without approved leave.

Generally, employees are not paid for time when they are not working when they are absent without approved leave. This is not part of the disciplinary process. Absent mitigating circumstances, should an employee who is exempt from the overtime and wage provisions of the Fair Labor Standards Act be absent without approved leave, they are not paid for any such full-day absences.

A. Investigation, Culpability and Mitigating Circumstances:

1. In the event an employee does not report to work as expected, the supervisor may do the following:
 - a. First, attempt to contact the employee via the contact information provided by the employee
 - b. If unable to contact the employee, attempt to contact the employee via the emergency contact information provided by the employee on the employee's new hire form or PeopleSoft account
 - c. In consultation with the employee's HR SDM, request that a welfare check be conducted
2. The supervisor and/or other human resources personnel should speak with the employee regarding his or her unexcused absence, as well as engaging in any additional fact-finding process before providing a recommendation for corrective action/discipline. The level of corrective action/discipline shall be determined on a case-by-case basis following a review of the facts, aggravating factors (e.g., additional rule violations such as dishonesty), mitigating factors, and the terms of an applicable collective bargaining agreement.

Unless a legitimate emergency or other mitigating factors exists, an employee who is absent without approved leave is subject to corrective action or discipline, up to and including termination of employment.

- a. Examples of situations which do not usually rise to the level of legitimate emergencies or mitigating factors may include, but are not limited to:
 - Transportation issues
 - Mistaken understanding of work schedules
 - Mistaken understanding of approved leave days
 - Failure to cooperate in providing department requested forms, such as family medical leave, request for leave of absence, and medical documentation
 - Incarceration
 - Requirements associated with a second job
 - Oversleeping
- b. Examples of situations which, depending upon the situation, might constitute authorized absences or mitigating factors for absences without approved leave include but are not limited to:

- Medical emergency or family medical leave reported after the fact because leave is not foreseeable and/or notification not feasible
- A disability as provided for under disabilities law
- Home maintenance emergency
- Efforts of the employee to notify his or her supervisor of an absence

B. Disciplinary and Termination Procedures:

When career service employees are absent without approved leave, corrective action or discipline may be progressive in nature and may include an oral reprimand, a written reprimand, suspension or termination. Career service employees may be suspended or terminated with cause provided that they have first been provided notice of the allegations and an opportunity to be heard.

When at-will employees (those who are appointed, provisional, probationary, temporary) are absent without approved leave, corrective action need not be progressive and may include an oral reprimand, a written reprimand, suspension or termination. At-will employees may be terminated with or without cause and without prior notice to the employee.

1. **Consultation with the Human Resources Division (HRD).** When considering a proposed discipline for absences without approved leave for any employee, the department appointing authority (department director, division director, or other appropriate department authority with management responsibility), through or together with the HR SDM, will consult with the HRD Director or designee. The procedure for doing so is to present the matter to the HRD Director's Pre-Disciplinary Review Committee. (See HR Bulletin "Disciplinary Review Procedure" 03-LER-01, August 21, 2003; some departments or divisions that HRD Director consultation is not required because other HRD Director review processes exist). This process applies to all employees.

Incarcerated Employees. Supervisors must notify their department HR SDM in cases where an employee is absent without approved leave due to incarceration. Leave requests to cover a scheduled term of mandatory incarceration or to cover an unexpected term of mandatory incarceration of one calendar workday or less shall be reviewed on a case-by-case basis by the department HR SDM. Leave requests to cover a scheduled term of mandatory incarceration or to cover an unexpected term of mandatory incarceration of more than one calendar workday shall be reviewed on a case-by-case basis by the HRD Director or designee.
2. **Disciplinary Proposals.** After consulting with the HRD Director or designee, the department notifies the employee of proposed disciplinary action. Career service employees who are subject to suspension, termination, or other action resulting in the loss of pay are entitled to a *Loudermill* (due process) meeting and are provided notification (usually via a *Loudermill letter*, see attached) of the proposed discipline together with a summary explanation of the evidence. The *Loudermill* process does not apply to an at-will employee.
3. **Disciplinary Determination.** The final disciplinary determination should be made by an appropriate department authority, having consulted with HRD when appropriate and in accordance with the normal practices of the department (usually via a post-*Loudermill letter*, see attached). As noted above, the discipline imposed, if any, may be dependent upon the individual facts and circumstances including any mitigating or aggravating factors.

Job Abandonment. Unless mitigating or aggravating factors exist, termination may be proposed for an employee due to job abandonment which is defined as being absent without approved leave for three or more full workdays. The proposal must proceed through due process procedures as set forth above. Termination for job abandonment renders an employee ineligible for reemployment with King County.

This Human Resources Bulletin applies to employees in executive branch departments, administrative offices and agencies, unless otherwise provided for under a collective bargaining agreement. In the event any provision of this Human Resources Bulletin conflicts with an applicable provision of a collective bargaining agreement or binding past practices thereunder, the latter shall prevail.

This Human Resources Bulletin does not create an employment contract or term or limit the dissolution of the employment relationship. The effect of the provisions of this bulletin confer no new privilege, right of appeal, right of position for any King County employee. At-will employees serve at the pleasure of the hiring authority and may be terminated with or without cause or prior notice; this Human Resources Bulletin does not change the at-will nature of employment for such employees. This bulletin does not constitute an express or implied contract, and is simply a general statement of King County policy which cannot form the basis of a private right of action.

QUESTIONS/COMMENTS

Refer all questions or comments via e-mail to the Human Resource Division Operations Section.



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