

Managing the Dental Team

ADA's Guidelines for Practice Success™ (GPS™)

CONSIDERATIONS FOR A MATERNITY LEAVE OF ABSENCE POLICY

Did you know that pregnancy discrimination is the most frequently investigated complaint by the U.S. Equal Employment Opportunity Commission (EEOC)? It's a good rule of thumb to develop a comprehensive policy on this complicated issue before you need it. Be aware that, in addition to a specific policy on maternity leaves of absence, you should be aware of how that policy is affected by other policies, how you've handled previous situations with similar circumstances, and state and federal rules, regulations, and laws that govern the policies you adopt

- Do not ask a pregnant employee for a note from her physician certifying that she is cleared to continue working.
 - You can require that her physician provide documentation certifying the need for the leave of absence.
 - ✓ You can also require a physician's letter certifying that the individual is cleared to return to work once the leave of absence is completed.
 - Recognize that the employee and her physician have collaborated on how long she can work and respect their decision.
 - ✓ It's generally advised that employers refrain from suggesting that pregnant employees begin their leaves of absence early, even when motivated by good intentions.

- Employers with fewer than 50 employees are not required by federal law to grant a leave of absence.
 - Be aware that most states have anti-discrimination laws that require employers to treat pregnant employees the same way they do any employee with a temporary medical disability.
 - Find out whether your state or municipality is one of those that have stricter rules.
 - If your practice has 50 or more employees, you will need to comply with the Family and Medical Leave Act (FMLA), which entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. Leaves of absence under the FMLA are for 12 weeks.

- The failure to create a formal policy that addresses leaves of absence could result in you being held to a "default" standard based on past habits and practices.
 - A comprehensive written policy can protect the practice by:
 - ✓ specifying that any pregnant employee planning to return to work after a maternity leave of absence must advise you of the date of her return to work and keep you informed in the event that the expected return date changes.
 - ✓ outlining under what circumstances the employee can request an extension of her leave.
 - ✓ addressing what happens if the employee fails to return to work on the scheduled date.
 - ✓ detailing what happens if the practice downsizes and her position becomes unavailable. It's a good idea to have a professional, such as an attorney who specializes in employment law or a qualified human resources professional, assist in crafting this language.
 - ✓ explaining how the accrual of benefits, bonuses, etc., will be managed during the leave.

- Your staff policy manual or handbook should include a statement that informs all employees of any potential dangers or toxins in the workplace, and that they must determine, together with their physician, whether or not they should continue to work.
 - Make sure each written job description details whether the position requires the employee to work with or around any potentially dangerous substances.
- Your staff policy manual should detail how poor performance by any employee will be handled. This is another topic where it's recommended that you work with a professional to assure your policy complies with all relevant regulations and is non-discriminatory.

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