

Jason Habinsky in HR Magazine: 4 Sick-Leave Practices to Avoid During the Coronavirus Pandemic

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Haynes Boone Partner [Jason Habinsky](#) talked with *HR Magazine* about how employers can avoid letting business pressures and past practices lead to bad decisions about attendance and leave policies during the public health emergency.

Here is an excerpt:

Here are four mistakes employment law attorneys said businesses should avoid.

Applying Policies Inconsistently

"Employers may choose to relax certain procedures set forth in sick-leave policies under extenuating circumstances, such as the current outbreak," said Jason Habinsky, an attorney with Haynes Boone in New York City. "However, it is critical that employers apply any such modifications uniformly in order to avoid any claims of discrimination or unfair treatment."

For example, if an employer chooses to excuse absences for or to advance paid time off or vacation time to employees as a result of a COVID-19-related illness, the employer must be certain to do the same for all employees who are absent under similar circumstances.

"This requires employers to ensure that all decision-makers are aware of any temporary or permanent modifications to sick-leave policies to maintain consistency," Habinsky said.

Ignoring Leave Laws

Employers must also avoid forcing a sick employee to perform services while out on leave, Habinsky noted, as this may constitute interference or retaliation under certain leave laws, such as the Family and Medical Leave Act (FMLA). In fact, employers must avoid taking any actions against employees that could be construed as retaliation in violation of the FMLA, the Americans with Disabilities Act, and applicable state and local paid-sick-leave laws.

"This could include any form of discipline in response to an employee's use of sick time or request to use sick-leave time," Habinsky said. "Likewise, to the extent employees are performing services while working remotely from home, they must be paid for time worked in accordance with applicable federal and state wage laws consistent with their classification as exempt or nonexempt."

To read the full article, click [here](#).