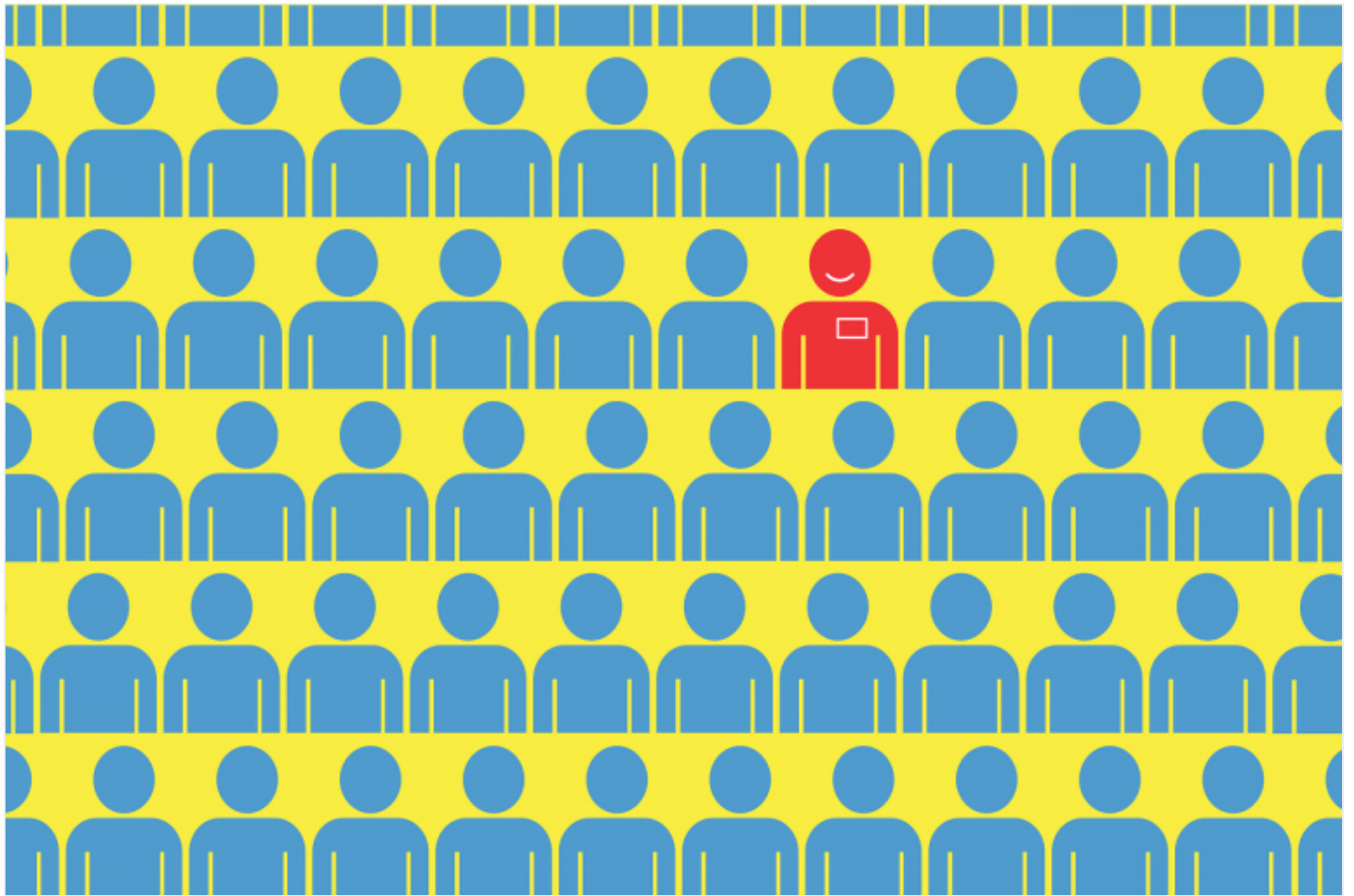


Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

Richard D. Alaniz • Jul. 06, 2022



As one might expect, the pandemic made 2020 and 2021 unique years for workers calling in sick, but employee attendance has long proven a nettlesome issue for employers. The average number of sick days per employee annually is 5.2, and one in four workers admit to being late for work at least once per month. Survey data indicates that an average of 1.5 million workers per month missed work due to personal illness.

Absent and tardy employees result in over \$225 billion in lost productivity each year. Absenteeism has significant and costly effects, such as diminished product quality or

business services and weakened employee morale among those employees forced to

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

otherwise result in disciplinary action. Employees know that another job with competitive pay and benefits is likely available just down the road.

Employers have also historically used incentives to address attendance problems. Some have used hourly pay incentives, while others have used lump sum bonuses for perfect attendance over a specified period. Other incentives for perfect attendance have included such things as flat screen televisions, additional vacation days, additional paid days off and gift cards.

Anecdotal reports from employers suggest such bonuses generate short-term success but this generally dissipates over time. One drawback of such bonuses is the administrative headache of calculating the regular rate for overtime purposes under the Fair Labor Standards Act (FLSA) to account for the bonus payment. This can generate substantial liability over time if not handled correctly. Despite their limitations, many employers continue to use incentives to incentivize better attendance.

In recent years employers have begun to more frequently include regular attendance as an “essential function” in some job descriptions as a means of rendering an employee “not qualified to perform the job” as the basis for termination where an employee is regularly absent. This strategy has been generally successful in circumventing Americans with Disabilities Act (ADA) claims, as federal courts consistently conclude the employer’s reasonable judgment regarding what job functions are truly “essential,” should be accepted.

Nonetheless, there is no perfect solution to attendance issues, and thus, employers must be proactive in setting their expectations clearly during the onboarding process. In addition to being an integral part of the employee handbook, employee attendance policies should be emphasized during employee meetings or town halls. Employers must also ensure their supervisors receive sufficient training on managing

absenteeism. Under most attendance policies employees generally must call their

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

the absence.

The focus of the contact should always be the employee's well-being. Any implication that the supervisor is pressuring the employee to return could lead to claims of interference with legally established leave under the ADA, Family and Medical Leave Act (FMLA), and/or a similar state law.

A final issue to consider in addressing employee absences is the possibility that the poor attendance is symptomatic of a more serious problem the employee may be experiencing. Frequent absences could indicate drug or alcohol dependency issues. The absence could be caused by undiagnosed medical issues or family issues. It might even be the result of a conflict with a coworker or supervisor.

When discussing an absence with a returning employee, the supervisor should tactfully try to determine if there is some underlying problem causing the absences. This information would be relevant to any contemplated disciplinary action, as well as to a decision to refer the employee to a medical provider or assistance program. The employee's well-being should always remain the priority.

By setting clear expectations on employee attendance from the outset, periodically re-emphasizing the effects of absences on the operation and co-workers, and making attendance management the supervisor's responsibility, you may be able to limit unnecessary absences in your workplace.

=====

Rick Alaniz, JD, of [Alaniz Associates](#), has been at the forefront of labor and employment law for over forty years. He began his legal career as a trial attorney with the U.S. Department of Labor, served on the President's Cost of Living Council during the Nixon Administration and also held prominent posts within the National

Labor Relations Board, first in Washington D.C. and later in Minneapolis where he

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

© 2024 Firmworks, LLC. All rights reserved