

TESTIMONY

SB 2883

LATE



Randy Perreira
President

HAWAII STATE AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Labor

Testimony by

Hawaii State AFL-CIO

February 2, 2010

S.B. 2883 – RELATING TO EMPLOYMENT PRACTICES

The Hawaii State AFL-CIO strongly supports S.B. 2883 which makes it an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave.

S.B. 2883 simply protects employees from being disciplined for taking legitimate sick leave. For example, Hawaiian Telcom does not exclude sick leave as part of its hours of absence according to its attendance policy dated May 2, 2005. As a result, employees who use legitimate sick leave and exceed the two percent absenteeism policy are subject to various disciplinary actions. Furthermore, the attendance policy states "when a coach determines that an employee's absence or occurrence rate exceeds two percent (*even though legitimate*) or the absence is unexcused, the coach can refer to Hawaiian Telcom's discipline practices concerning employee performance discussions and appropriate corrective action." Therefore, it should be noted that Hawaiian Telcom's attendance policy explicitly states that they in fact discipline employees for taking legitimate absences even though the collective bargaining agreement signed by Hawaiian Telcom and IBEW 1357 clearly allows employees the use of legitimate paid sick leave.

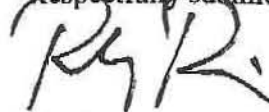
Moreover, in the case of *Auer v. Village of Westbury*, the Supreme Court, Appellate Division ruled in favor of an employee who had been suspended for thirty days for using up his sick leave entitlements. The Supreme Court, Appellate Division proclaimed "the fact that the employee used all his available sick days under the collective bargaining agreement did not alone establish that he was abusing his sick leave and, thus, did not warrant a finding of misconduct." As a result, the Court nullified the penalty and finding of guilt and ordered the employer to repay the employee for the entire period he was suspended.

In all, employees who use entitled sick leave should be protected under law from abuse and discipline. Employees should not have to be fearful of getting sick and worried if they take off from work they could be subjected to various forms of discipline including suspension or even termination. The fact of the matter is, we all get sick and no one should be disciplined for something we cannot control. In addition, the Supreme Court, Appellate Division ruled that those who use their entitled sick leave under the collective bargaining agreement did not alone establish abuse and should not have been disciplined.

The Hawaii State AFL-CIO urges the passage of S.B. 2883 unamended to ensure companies such as Hawaiian Telcom do not continue their disciplinary actions to those who use entitled sick leave.

Thank you for the opportunity to testify.

Respectfully submitted,



Randy Perreira
President



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Testimony to the Senate Committee on Labor
Tuesday, February 2, 2010 at 3:00 pm

Testimony opposing SB 2883, Relating to Employment Practices

To: The Honorable Dwight Takamine, Chair
The Honorable Brian Taniguchi, Vice-Chair
Members of the Senate Committee on Labor

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, which represents approximately 810,000 credit union members across the state.

We are in opposition to SB2883, Relating to Employment Practices. Our concern is that this legislation may work against the best interests of employees who do receive paid sick leave through their employers. In today's economic climate, it has become common practice to cut staffing and expenses "to the bone", thus, the survival of any business depends largely on its employees being on the job. If offering paid sick leave to their employees becomes overly burdensome to the employer, the employer might opt to do away with it altogether.

Thank you for the opportunity to testify.



International Brotherhood of Electrical Workers

Telephone Local Union 1357

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Scot F. Long
Business Mgr. / Financial Sec.

Ted M. Furukado
President

SB 2883

RELATING TO EMPLOYMENT PRACTICES

SCOT F. LONG

BUSINESS MANAGER / FINANCIAL SECRETARY

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

LOCAL UNION 1357

February 2, 2010

Chair Takamine and Members of the Senate Labor Committee:

I am Scot Long, testifying on behalf of IBEW Local Union 1357 on SB 2883,
"A BILL TO ADDRESS THE TAKING OF LEGITIMATE SICK LEAVE".

IBEW Local Union 1357 strongly supports this bill.

IBEW Local Union 1357 represents over 800 hourly employees at Hawaiian
Telcom and throughout our tenure there we have had many of our
members disciplined for taking legitimate, negotiated sick leave benefits.

However, this is not a Hawaiian Telcom Bill, as other employers have been administering to a “2% no fault attendance policy” which is a trigger for disciplining employees for legitimate illnesses.

Employers will say that this Bill is a license for abuse and may prey on the unsophisticated. IBEW Local Union 1357 prides itself on responsible behavior and there are provisions in our Collective Bargaining Agreement, as well as recourse under Federal Regulations, to address any abuse. No, this Bill is not a license for abuse, but just the opposite. This is a Bill to restore dignity and civility in the workplace.

We humbly ask for your support of SB 2883 and we thank you for the opportunity to testify.

Dear Senator Takamine,

My name is Tammy Ludington and I rise in support of SB#2883. I have worked for Hawaiian Telcom for 13 years as a Residential Sales Support Representative in their Call Center. The unfortunate part is that I have been disciplined for taking legitimate sick leave, even when I provided the company with a Doctor's note advising them of my illness.

I ask for your support of SB#2883 to help provide relief from harassment and discipline for being legitimately ill, especially at a time when having the flu can cause death.

Mahalo for your support,

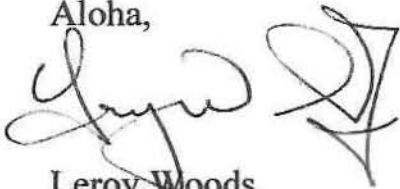
A handwritten signature in black ink, appearing to read "Tammy Ludington". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Tammy Ludington

Dear Senator Takamine,

My name is Leroy woods and I have worked almost 4 years at Hawaiian Telcom and I am in strong support for SB# 2883. Myself and many other employees have been disciplined for taking legitimate sick leave. SB#2883 would provide the much needed relief as I work with my physician on getting better. I apologize for not testifying in person and thank you for your support of the Bill.

Aloha,



Leroy Woods

LINDA LINGLE
GOVERNOR



Darwin L.D. Ching
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 1, 2010

To: The Honorable Dwight Y. Takamine, Chair,
and Members of the Senate Committee on Labor

Date: Tuesday, February 2, 2010

Time: 3:00 p.m.

Place: Conference Room 224
State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

Testimony in Opposition Re: S.B. 2883 - Relating to Employment Practices

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. 2883 proposes to add a new protected class of workers under the Unlawful Suspension or Discharge Law, Chapter 378-Part III, by adding a new section making it unlawful for employers and labor organizations to bar, discharge from employment, withhold pay from, or demote an employee because an employee used accrued and available sick leave provided by the employer.

This Act would take effect upon approval.

II. CURRENT LAW

There is currently no provision in the law that requires employers to provide sick leave outside Temporary Disability Laws.

Chapter 378, HRS, Part III, prohibits employers from unlawfully suspending, discharging or discriminating against an employee for three things: 1) solely because the employer was summoned as a garnishee in an employee's proceedings under Chapter XIII of the Bankruptcy Act; 2) solely because the employee suffered a work injury that was

compensable under the Workers Compensation Law, Chapter 386, HRS, or 3) because the employee testified or was subpoenaed to testify in a proceeding under Part III.

III. SENATE BILL

The Department opposes H.B.2935 for the following reasons:

1. The Department does not believe this measure will not serve to improve sick leave benefits rather, it is likely to make it harder for employees to negotiate for *any* sick leave because it opens the door to new liability for employers where optional sick leave programs are in place and makes it less attractive for employers to offer sick leave at all.
2. This bill attempts to regulate the optional employer-provided benefit of sick leave. Sick leave is part of a negotiated package between employer and employee. It is the Department's contention that this bill is not needed because the problem that it is intended to address, is more appropriately handled through other avenues.
3. The Department is also concerned about the unintended consequences this bill will have.
 - a. Because providing sick leave is not mandatory, this law may discourage employers from providing a sick leave policy, to avoid being involved in disputes of unlawful practices.
 - b. As a separate section, this bill would not afford the full protections provided by this Chapter against unlawful suspension or discrimination.
4. State and federal laws on disability discrimination and family leave already extend protection to individuals whose absence from work is legitimate, whether or not covered by sick leave. The provisions of the federal Family Medical Leave Act (FMLA) require that, "Employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions, or disciplinary actions, nor can FMLA be counted under "no fault" attendance policies." In addition, the Americans with Disability Act and the Hawaii Employment Practices Law prohibit discrimination against disabled employees who require time off from work as reasonable accommodation unless such absence becomes an undue burden.



Local Union 1260

International Brotherhood of Electrical Workers

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LANCE M. MIYAKE
Business Manager-Financial Secretary

LOREN TAGUCHI
President

February 2, 2010

Senator Dwight Takamine
Chair, Committee on Labor
The Senate
State of Hawaii

Dear Chair Takamine:

RE: S.B. No. 2883

The IBEW Local 1260 request that the Committee Labor & Public Employment submit H.B. No. 2883 to the State Senate for the enactment of this bill. The Local Union, with this testimony, will show how Hawaiian Electric Company, Inc. uses their Attendance Improvement Program (AIP) to intimidate and discipline their employees from using their sickness benefits.

The AIP is a Company policy that was not negotiated and it is only implemented on the union members of the Company. Since it only affects the union members, it is not only discriminatory but also unfair because it uses discipline to discourage use of a negotiated benefit.

Quoting the AIP, "For purpose of the AIP, 'absences' that are monitored include the following: sickness; unscheduled absences; unexcused absences; and tardiness." According to the AIP, the definition for unexcused absence is "any unscheduled absence or tardiness from the defined work scheduled where appropriate notice is not provided and/or the supervisor does not approve the absence."

The Company has encouraged employees to use the FMLA for illnesses and/or injuries, so the occurrence will not count on the AIP. The purpose and reason for FMLA was if employees did not have vacation or sick benefits, they could use FMLA to avoid being disciplined for the time away from work.

Under "Rights of Management," it states that the Company has the right to determine when an employee can take vacation or excused absence. The definition of excused absence is not defined, but assuming that sick leave with physician's note is an excused absence, then how does the Company schedule the sick leave.

The Corporate Health Administrator or Director, Corporate Health & Wellness (same person), whose qualifications has been questioned by the Local Union, has ruled on most of the AIP "Steps" that the Administrator or Director reviewed the employee did not have

International Brotherhood of Electrical Workers

Local 1260



documentation to support the absence. The Administrator has also on numerous occasions, stated that she has reviewed the documentation from employee and determined that the absence(s) does not qualify as serious, chronic, or FMLA-related. The Administrator, who has not established her qualifications to the Local Union, is actually disputing the physician's note for the absence(s). How does she determine if an absence is FMLA-related when the employee's physician needs to fill out Section 3 on the form?

The employee's record on sick leave for their career is not considered, the employee may have an excellent attendance record, but if that employee is experiencing a "bad" time in his career regarding being ill, injured, or both, that employee will receive discipline. The attachment will show that the Company has stated to employees that they will be held to the triggers of the AIP.

The AIP policy discourages use of sick leave, and therefore there may be times when an employee will come to work sick. The Local Union has been trying to point out to the Company that prevention of pandemic outbreaks, such as H1N1, is to stay home when you feel any type of symptoms associated with influenzas or colds because even if you take a test, the results takes a while to come back. It would be sad if a pandemic outbreak is started because of policies like the AIP, a child who is most vulnerable to H1N1 should die because of a policy like the AIP exist would be unforgivable.

The Local Union is not against any policy for abuse of sick leave or sick benefits, but since it is a negotiated benefit in the CBA, the Local Union would like to have collective bargaining involved in establishing such policies. It is not this Local Union's intention to allow to hinder the Company in its operations but the Company needs to establish that abuse has occurred. Please stop companies like Hawaiian Electric Company, Inc. from using policies like the AIP to circumvent sick benefits negotiated in collective bargaining agreements (CBA). Imagine what might be happening to employees who work for companies that don't have a CBA.

Respectfully submitted,

Lance M. Miyake
Business Manager – Financial Secretary

Attachment

PURPOSE & OBJECTIVE

Employees are expected to maintain a reasonably healthy lifestyle as every employee's well-being contributes to a safe, efficient and productive workplace. In addition, a consistently dependable employee is critical to the health and well-being of other members of the team.

The Attendance Improvement Program (AIP) establishes definitive expectations of attendance and guidelines for fair and consistent management of attendance issues related to excessive as well as pattern absences. The purpose of the AIP is to ensure the following:

- employees report to work on time and on a regular basis;
- each job is completed as safely, effectively and efficiently as practical by those best qualified;
- disruptions to operations (resulting from unscheduled absences) are minimized;
- morale of all employees is maintained at a consistently high level; and
- the Company can compete in a competitive environment.

It is important to note that the AIP is not meant to be punitive, but rather, corrective. The objective is to establish a fair and equitable solution, sensitive to employees' ailments / needs, while modifying the behavior that is below expectations.

RIGHTS OF MANAGEMENT

The Company has the sole and exclusive right to determine when an employee can take vacation or excused absence. Supervisors are expected to appropriately approve or deny absences based on a determination of whether the absence is disruptive and / or unavoidable. An employee may be denied vacation if the absence is determined to be disruptive or the reason inadequate.

The Company recognizes that employees may have a "bad year" and, thus, administration of the AIP relies on supervisory judgment and management review as well as considering past history and patterns of absences.

MONITORING & ADMINISTRATION

Departments will manage the attendance of all its employees by:

- establishing attendance expectations for "frequency," "total hours" and "patterns";
- monitoring attendance relative to expectations; and
- taking actions as outlined in the AIP.

For purposes of the AIP, "absences" that are monitored include the following:

- sickness;
- unscheduled absences;
- unexcused absences; and
- tardiness.

Once problem attendance has been identified, the employee is placed in the AIP to help the employee better manage his / her attendance challenges by providing clear procedures and / or consequences for current and subsequent occurrences of absence.

CORRECTIVE ACTION PROCESS

The following process shall be used to promote improved attendance. Note that the timeframe for the next trigger begins on the date of the last occurrence.

STEP I: COUNSELING**Trigger for Step I:**

- 4th occurrence within a twelve-month period, OR
- 48 hours within a twelve-month period; OR
- 2 or more pattern occurrences, such as where the absence(s) coincides with a day of leave, with or without pay, within a twelve-month period.

STEP II: DOCUMENTED VERBAL WARNING**Trigger for Step II:**

- 2 occurrences within the next six-month period, OR
- 24 hours within the next six-month period.

STEP III: WRITTEN WARNING**Trigger for Step III:**

- 2 occurrences within the next six-month period, OR
- 24 hours within the next six-month period.

STEP IV: DECISION-MAKING LEAVE AND PERSONAL ACTION PLAN**Trigger for Step IV:**

- 2 occurrences within the next six-month period, OR
- 24 hours within the next six-month period.

STEP V: TERMINATION**Trigger for Step V:**

- Next occurrence within the next six-month period.

GETTING OFF THE PROGRAM

An employee who does not meet the criteria for the next trigger is removed from the AIP.

EMERGENCY LEAVES

Emergency leaves are available only for compelling, urgent or unusual circumstances. The Supervisor or Superintendent **MUST** approve this type of unscheduled absence and the employee must provide a legitimate reason for the urgency or lack of notice. Generally, "personal reason" is not a sufficient explanation for emergency leaves. Typical examples include, but are not limited to the following types of requests:

- Addressing the safety of the employee, the health or well-being of the employee's family, or that qualifies under the FMLA;
- Transacting business which cannot be otherwise transacted before / after scheduled workdays or on days off;
- Where the situation was beyond the employee's control and other arrangements such as the swapping of shifts / work schedules could not be arranged.

DOCTOR'S CERTIFICATE OF ILLNESS / INJURY

A doctor's certification of illness or injury preventing an employee from performing his or her job responsibilities is required in the following situations:

1. absences of 3 or more consecutive days;
2. any absence where the employee has 4 or more separate absences within a 12 month period;
3. any absence where the employee is not at home when called on by a Company representative during the period that the employee is absent from work;
4. situations which may require a supervisor to ensure the employee's state of health does not represent a danger to themselves or fellow workers, or that the supervisor must determine whether an act of deception or dishonesty might have taken place. In any case, such a demand shall not be made arbitrarily.

Failure to provide valid certification as requested shall result in non-payment of sickness benefit. All medical records obtained in accordance with this policy shall be deemed confidential and shall be maintained by the Corporate Health Administrator.

Employees with chronic or serious illnesses / injuries, as certified by the treating physician, will be reviewed on a case-by-case basis by the Corporate Health Administrator and handled accordingly.

FALSIFICATION & / OR ABUSE

Any employee found to have falsified illness reports or otherwise abused the privileges of the sickness benefit plan will be dealt with in accordance with Company policies and the Collective Bargaining Agreement.

TARDINESS

Disruptive or habitual tardiness must be addressed and officially acted upon. Tardiness will not be tolerated and will be dealt with on a case-by-case basis using frequency, duration, and its effect on operation as a means of determining corrective action necessary.

DEFINITION OF TERMS**Chronic or Serious Illnesses / Injuries**

A chronic or serious illness/injury is a life threatening or very serious condition which requires hospital care, ongoing outpatient follow-up, and is a situation where return to normal work may be detrimental to the patient's health or to other employee's health, or the patient is felt by his/her physician to be completely incapacitated to perform any of the duties of his/her job.

Decision-making Leave

The employee placed on a one (1) day paid administrative leave (not deducted from employee's leave account) and decide on returning with:

1. a decision to voluntarily resign, to be effective immediately; OR
2. a written Personal Action Plan stating:
 - the actions the employee will take to improve his/her absenteeism, and
 - that he/she understands the repercussions of the next "trigger," and
 - that he/she understands the timeframe for improvement.

Note: It is critical that the employee understand that the decision-making day is NOT a "day off." The employee is given a direct order to make a final decision while on the clock. Failure to do so ("I couldn't make up my mind" or "I decided not to decide") is insubordination – failure to follow a direct and legal order – and will result in disciplinary action, up to and including termination.

Disruption

An absence is defined as disruptive if it causes, but is not limited to, the following:

1. overtime
2. delays in normal schedule
3. delays completion of work within the expected timeframe.

Excused Absences

Excused absences are those in which appropriate notice (at least one day) is provided AND the supervisor approves the absence (e.g., vacation, excused absence with / without pay, etc).

Pattern Absences

Patterns of abuse include the following examples, but are not all-inclusive:

- unscheduled absences correlating with holidays, regular days off, and paydays
- absences which reflect a trend (i.e., Mondays and Fridays)
- frequent tardiness in reporting to work or reporting back to work during the course of the workday.

Personal Action Plan (PAP)

The Personal Action Plan is a mutual understanding between the supervisor / Company and the employee where goals, specific steps and measurements are identified to improve his / her attendance.

Trigger

A trigger is the point that initiates / prompts action. The timeframe for the next trigger begins on the date of the last occurrence.

Unexcused Absences

Unexcused absences are defined as any unscheduled absence or tardiness from the defined work schedule where appropriate notice is not provided and / or the supervisor does not approve the absence.

RECEIVED OCT 13 2004

INTEROFFICE CORRESPONDENCE



Hawaiian Electric Co., Inc.

September

To:

Subject: Status of Attendance Improvement

On April 1, 2002 the Company's new Attendance Improvement Program (AIP) was rolled out to our employees. The program's key elements included the following:

- Employees who are currently on departmental programs will be transitioned to the new AIP.
- Employees will be held to the "triggers" of the new AIP.

On March _____ you were issued a Step I (equivalent to Step I of the new AIP) as a result of your excessive absenteeism record. You were also advised to immediately improve your attendance to meet specific attendance goals and requirements.

I am very pleased to confirm that because you have been absence-free for 6 months (since March _____) you are no longer on any special attendance improvement program (including the new AIP). You've done a very good job for these past 6 months and I would like to thank you for your great effort and results. Keep up the good work!

cc:

Industrial Relations
IBEW Local 1260



HAWAIIAN ELECTRIC COMPANY, INC.

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ATTENDANCE IMPROVEMENT PROGRAM

STEP II - DOCUMENTED VERBAL WARNING

RECEIVED OCT 23 2009

Employee: _____
21044

RA/Employee No: _____

Date: _____

Time: _____

Date of Step I: _____

Interviewer: _____

Step II

Dates of Occurrences & Hours

Total Hours/Occurrences: _____

7/6-8/09 24 hrs.

24 Hours/1 Occurrence

Review Step I Documentation with Employee

- Placed on Step I or
- Since the last occurrence of absence on _____ i has incurred 1 occurrence and 24 hours.

Employee Response

Advise Employee of Company's Expectations per Attendance Improvement Program

- We need him to maintain a reasonably healthy lifestyle so that he is able to report to work on a regular basis
- His attendance is critical to the operations of the Department
- Based on the Director, Corporate Health & Wellness's review of his absences, the documentation for his absence does not support a serious, chronic or FMLA-related occurrence.
- Therefore, Ben has met the triggers for Step II of the AIP

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

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HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____ RA/Employee No: _____

Date: _____ Time: _____

Date of Step I: _____ Interviewer: _____

Step II

Dates of Occurrences & Hours Total Hours/Occurrences: _____

7/6-10/09	40 hrs.	64 Hours/2 Occurrences
7/16-20/09	24 hrs.	

Review Step I Documentation with Employee

- Placed on Step I on 2/2/09
- Since the last occurrence of absence or _____ hael has incurred 2 occurrences and 64 hours.

Employee Response

Advise Employee of Company's Expectations per Attendance Improvement Program

- We need him to maintain a reasonably healthy lifestyle so that he is able to report to work on a regular basis
- His attendance is critical to the operations of the Department
- Based on the Director, Corporate Health & Wellness's review, the documentation for his absences does not support serious, chronic or FMLA-related occurrences
- Therefore, Michael has met the triggers for Step II of the AIP

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or



HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

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RECEIVED JAN 26 2009

Employee: _____ RA/Employee No: _____

Date: _____ Time: _____

Date of Step I: _____ Hours / Occurrences: 72 hours / 2 occurrences

Interviewer: _____

Step II

List Hours/ Occurrences: <u>40 hrs - 9/15-19/2008</u>	Total Hours/ Occurrences: <u>40 hours / 1 occurrence</u>

Advise Employee of Company's Expectations per Attendance Improvement Program

incurred 1 occurrence totaling 40 hours over the last month.

- we need him to maintain a reasonably healthy lifestyle so that he is able to report to work on a regular basis
- his attendance is critical to the operations of the Department
- based on the Corporate Health Administrator's review of his absences, he did not have documentation to support this absence.
- he is being placed on Step II of the AIP.

Employee Response

Ask the employee if there is anything you can do to HELP THEM resolve the situation. (Note: It is not the intent for you to resolve their attendance problem but to help them to help themselves)

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.



RECEIVED MAY 26 2009

HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____ RA/Employee No: _____
 Date: _____ Time: _____
 Date of Step I: _____ Hours / Occurrences: 24 hrs/1 occ.
 Interviewer: _____

Step II

- May 12-14, 2009 – 24 hrs.

Review Step II Documentation with Employee

_____ was supposed to have dropped off of the AIP on August 27, 2009. However, as of May 15, 2009, she incurred 1 additional occurrence totaling 24 hours. The Corporate Health Administrator has not received any documentation regarding this absence.

Employee Response

_____ informed us that she had a scheduled procedure for Friday, May 15, 2009 (which she took a vacation day for), and was trying to recover from a cold she caught in the beginning of the week. She was planning to return on Thursday, May 14, 2009, but took an extra day to make sure she was fully recovered, as she needed to be 100% healthy for her procedure.

Advise Employee of Company's Expectations per Attendance Improvement Program

Employee is aware that we are concerned about her absences.

Employee Response

_____ asked if she would need to provide a doctor's slip for all future occurrences. Upon reviewing the GIM, we found the answer to _____'s question and will be forwarding the answer via email.

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

_____ understands that she will be placed on Step III of the AIP if she incurs 2 occurrences or 24 hours in the next six months. _____ was advised the 6 month period will begin from the last sick occurrence. She will be removed from AIP Step 2 on November 14, 2009.

Additional Comments:

cc: Manager _____ Industrial Relations _____ PHF _____
 Supervisor's Signature: [Signature] Date: 5/19/09
 Employee's Signature: [Signature] Date: May 19, 2009



RECEIVED MAY 26 2009

HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____
 Date: _____
 Date of Step I: _____
 Interviewer: _____

RA/Employee No: _____
 Time: _____
 Hours / Occurrences: 24 hrs/2 occ.

Step II

- April 9th and 13th, 2009 – 16 hrs.
- May 14, 2008 – 8 hrs.

Review Step II Documentation with Employee

_____ was supposed to have dropped off of the AIP on May 20, 2009. However, as of May 14, 2009, she incurred 2 additional occurrences totaling 24 hours. The Corporate Health Administrator has not received any documentation regarding this absence.

Employee Response

Advise Employee of Company's Expectations per Attendance Improvement Program
 Employee is aware that we are concerned about her absences

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

_____ understands that she will be placed on Step III of the AIP if she incurs 2 occurrences or 24 hours in the next six months. _____ was advised the 6 month period will begin from the last sick occurrence. She will be removed from AIP Step 2 on November 14, 2009.

Additional Comments:

cc: Manager _____

_____ Relations

PHF

Supervisor's Signature: _____ Date: _____

Employee's Signature: _____ Date: _____



HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP I - COUNSELING

Employee: _____	RA/Employee No: _____
Date: <u>4/20/2004</u>	Time: _____
Period: <u>9/2/2003 thru 3/12/2004</u>	Interviewer: _____
List Hrs/Occur: <u>32 hrs. 9/2-5/2003</u>	Total Hrs/Occurrences: <u>32/1</u>
<u>32 hrs. 3/9-12/2004</u>	<u>32/1</u>

Advise Employee of Company's Expectations per Attendance Improvement Program

NAME OF EMPLOYEE incurred NO OF OCCURANCES occurrences totaling NO OF HOURS hours over the past 12 months. Advised NAME OF EMPLOYEE that:

- we need her to maintain a reasonably healthy lifestyle so that she is able to report to work on a regular basis
- her attendance is critical to the operations of the Department
- based on the Corporate Health Administrator's review of her absences, she did not have documentation to support her absences
- she is being placed on Step I of the AIP.

Employee Response

Ask the employee if there is anything you can do to **HELP THEM** resolve the situation. (Note: It is not the intent for you to resolve their attendance problem but to help them to help themselves)

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

Additional Comments:

Advised NAME OF EMPLOYEE that 6 month period starts from the date of the last occurrence. 6 month period is from DATE OF LAST OCCURENCE to 6 MONTHS AFTER LAST OCCURANCE.

Supervisor's Signature: _____

Date: _____

Employee's Signature: _____

Date: _____

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HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____ RA/Employee No: _____

Date: _____ Time: _____

Date of Step I: _____ Hours/Occurrences: 56 hrs/2 occurrences

Interviewer: _____

Step II

List Hrs/Occur: 40 hrs/ 3/2-6/09 Total Hrs/Occurs: 40 hrs/1 occurrence

Advise Employee of Company's Expectations per Attendance Improvement Program

incurred 1 occurrence totaling 40 hours over the past 6 months. Advised (Robert) that:

- we need him to maintain a reasonably healthy lifestyle so that he is able to report to work on a regular basis
- his attendance is critical to the operations of the Department
- based on the Corporate Health Administrator's review of his absences, he did not have documentation to support any of his absences.
- documentation for all other dates was reviewed by the Corporate Health Administrator and does not qualify as serious, chronic or FMLA-related
- he is being placed on Step II of the AIP.

Employee Response

Ask the employee if there is anything you can do to **HELP THEM** resolve the situation. (Note: It is not the intent for you to resolve their attendance problem but to help them to help themselves)

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

Additional Comments:

Advised _____ that 6 month period starts from the date of the last occurrence. 6 month period is from _____

Supervisor's Signature: _____

Date: _____

Employee's Signature: _____

Date: _____



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HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____ RA/Employee No: _____

Date: _____ Time: _____

Date of Step I: _____ Hours / Occurrences: 64 Hrs / 3

Interviewer: _____

Step II

List Hours/ Occurrences: 7/30/07-8/1/07 Total Hours/ Occurrences: 24 hrs / 1

Advise Employee of Company's Expectations per Attendance Improvement Program

- incurred 1 occurrence totaling 24 hours over the past 6 months. Advised _____ that:
- we need him to maintain a reasonably healthy lifestyle so that he is able to report to work on a regular basis
 - his attendance is critical to the operations of the Department
 - documentation for 7/30/07-8/1/07 absence was reviewed by the Corporate Health Administrator and does not qualify as serious, chronic or FMLA-related.
 - he is being placed on Step II of the AIP.

Employee Response

Ask the employee if there is anything you can do to **HELP THEM** resolve the situation. (Note: It is not the intent for you to resolve their attendance problem but to help them to help themselves)

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

Additional Comments:

Advised _____ that 6 month period starts from the date of the last occurrence. 6 month period is from 08/01/07 to 02/01/08.

Supervisor's Signature: _____ Date: _____

Employee's Signature: _____ Date: _____

cc: Manager Industrial Relations



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HAWAIIAN ELECTRIC COMPANY, INC.
ATTENDANCE IMPROVEMENT PROGRAM
STEP II - DOCUMENTED VERBAL WARNING

Employee: _____ RA/Employee No: _____
 Date: _____ Time: _____
 Date of Step I: April 4, 2008 Hours / Occurrences: 32 hrs / 4 occ.
 Interviewer: _____

Step II

- August 8, 2008 = 8 hours
- September 5, 2008 = 8 hours

Review Step II Documentation with Employee

_____ was supposed to have dropped off of the AIP on September 19, 2008. However, he has since incurred 2 additional occurrence totaling 16 hours. The Corporate Health Administrator said she has not received any documentation regarding these absences.

Employee Response

Advise Employee of Company's Expectations per Attendance Improvement Program
 Employee is aware that we are concerned about his absences.

Employee Response

Inform Employee on Availability of EAP / Corporate Health Administrator

Inform Employee of the Triggers to the Next Step

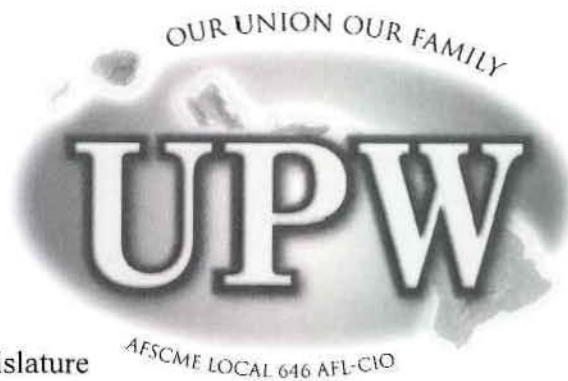
- 2 occurrences within the next six-month period, or
- 24 hours within the next six-month period.

_____ understands that he will be placed on Step III of the AIP if he incurs 2 occurrences or 24 hours within the next six months. He will be taken off of Step II on March 5, 2009.

Additional Comments:

cc: Manager _____ Industrial Relations _____ PHF _____

Supervisor's Signature: Jodi Carlson Date: 11/26/08
 Employee's Signature: [Signature] Date: 11/26/08



The Senate
The Twenty-Fifth Legislature
Regular Session of 2010

Committee on Labor
Senator Dwight Y. Takamine, Chair
Senator Brian T. Taniguchi, Vice-Chair

DATE: Tuesday, February 2, 2010
TIME: 3:00 p.m.
PLACE: Conference Room 224

**TESTIMONY OF THE UNITED PUBLIC WORKERS, LOCAL 646, ON SB 2883,
RELATING TO EMPLOYMENT PRACTICES**

SB 2883 makes it an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee uses accrued and available sick leave.

The UPW supports this measure. This issue has been before the Legislature for a number of years. Although it has yet to be codified into Hawaii's statutes, today's environment demands us to take a fresh look at this bill.

The current managerial policy to reprimand an employee for taking legitimate sick leave coerces employees to come to work when they are sick. The outcome of this policy flies in the face of the CDC's recommendation in response to the H1N1 epidemic: "If you get sick with flu-like symptoms this flu season, you should stay home and avoid contact with other people except to get medical care. People with influenza-like illness should remain at home until at least 24 hours after they are free of fever (100° F [37.8°C]), or signs of a fever without the use of fever-reducing medications."

In response to this edict, Oregon's Governor issued Executive Order Number 09-16, Implementing the State Response to Pandemic H1N1 Influenza, which advises employees "to remain at home while exhibiting flu-like symptoms."

SB 2883 is much more than righting an unjust management policy. Delaying passage of this measure will jeopardize our workplace environments and the health of our entire community. For this reason we urge the passage of this measure.

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HAWAII - 362 East Lanikaula Street ♦ Hilo, Hawaii 96720-4336 ♦ Phone: (808) 961-3424
KAUAI - 4211 Rice Street ♦ Lihue, Hawaii 96766-1325 ♦ Phone: (808) 245-2412
MAUI - 841 Kolu Street ♦ Wailuku, Hawaii 96793-1436 ♦ Phone: (808) 244-0815
1-866-454-4166 (Toll Free, Molokai/Lanai only)