

Sample: **Warning Memorandum**

MEMORANDUM FOR:

FROM:

Subject: Memorandum of Warning Regarding Absences from Duty

1. As I have discussed with you recently, your absences from duty during the period \_\_\_\_\_ to \_\_\_\_\_ (not more than the prior 12 months) appear to be an abuse of leave because (include whichever of the following is relevant):

- (a) proper procedures were not followed in requesting approval of your absence(s) from duty; or
- (b) this pattern of absence(s) has been disruptive to the mission of the office; or
- (c) your pattern of absence(s) appeared to indicate a misuse of leave.

NOTE: In this context, where applicable, “leave” may refer to either an absence charged to a traditional form of leave (annual or sick) or to an absence during core hours charged to credit time. If this broader concept of “leave” is applicable, the memorandum should so advise the employee.

2. Specifically:

NOTE: The following examples are not all inclusive, but are rather intended to illustrate some of the situations which supervisors may encounter, and the specificity identified and individually addressed.

Example #1: During the first quarter of the fiscal year, the workload in this office is extremely heavy because we are preparing the Secretary’s Annual Report to the Congress. To meet the Secretary’s deadline requires sustained and intensive effort by all staff members. However, during the first quarter of this fiscal year, you phoned the office requesting annual leave on an emergency basis on four different occasions – each of which began on a date on which you knew the printer was scheduled to deliver galley proofs of the Secretary’s Report to our office for proofing and editing. Because the time frame for returning these materials to the printer is very short, your absences required that the three other senior staff members of the

office assume responsibility for the work that should have been divided among the four of you. Moreover, on each of the four occasions that you requested the unscheduled leave, you did not contact me, but rather simply phoned the office secretary and told her to “put me on annual leave today.” As I had previously indicated in several staff meetings, this is not the appropriate way to request leave. Moreover, when you returned to duty after each of these absences, you were neither immediately forthcoming about the nature of the emergency which allegedly necessitated your absence, nor did you seem concerned about the undue burden which you knew your co-workers had had to assume in your absence. When I did question you about the reason for your absence, you were extremely vague, indicating only that you had “problems at home.” Thus, neither the way in which you requested leave, nor your subsequent explanation of your absence – on dates you knew to be critical in performing your fair share of the office responsibilities – is satisfactory. Your lack of regard for the unjust burden which your absences imposed on your co-workers is also of serious concern.

Example #2: Over the past summer, you have phoned the office either the day before or the day after each of the major holidays – Memorial Day, July 4<sup>th</sup> and Labor Day -- and indicated to the co-worker who answered, not to me, either that you were ill, or that you needed annual leave on an emergency basis, because you had car trouble which precluded your reporting to work allegedly for the entire day. On July 5<sup>th</sup> and the day after Labor Day, when you were expected to report for duty, you had been granted annual leave on the day following the holiday. Thus, you were aware that your absences on those two occasions left the Office without the clerical responsibilities which had to be taken care of on those days. The timing of your absences raises questions about the credibility of your explanations for them. Moreover, the way in which you requested leave on these three occasions does not meet the office requirements, which had been previously detailed in writing to all staff members of the office.

Example #3: During the past 12 months, you have used \_\_\_\_\_ hours of annual leave \_\_\_\_\_ of those hours were requested and approved in advance either by me or the Assistant Director. However, the balance of the annual leave used on the dates specified below, nor approved in advance by supervisory personnel.

On these dates, you generally phoned the office on the morning of your absence, and told whomever answered the phone to tell me that you would “not be in today.” Occasionally, each of us will need to request unscheduled annual leave to cover some unexpected or emergency need. However, your requests for annual leave which has not been previously

requested and approved are no longer “occasional”, but rather have become frequent, and are now occurring weekly. Following your return to duty from such absences occurring over the last sixty days, I have attempted to talk with you about the reason for the particular absences however, you are neither forthcoming nor specific. You also do not evidence any concern about the repeated re-distribution of work which your absences require your supervisors to make in order to meet office work expectations, or about the undue burden which this places on your fellow workers. For these reasons, your absences on the above specified occasions appear to be an abuse of annual leave.

NOTE: When specifying absences which indicate abuse, absences which have been – requested and approved in advance, or which are supported by administratively acceptable medical documentation will not be used as a basis for determining that there is an abuse of leave. They should not be included in a list of absences specifying such abuse.

Example #4: During the past 12 months, you have used \_\_\_\_\_ hours of sick leave \_\_\_\_\_ of those hours were requested and approved in advance either by me or, the Assistant Director, or were subsequently supported by a medical certificate. However, the balance of the sick leave, used on the dates specified below, were taken on \_\_\_\_\_ different occasions – and almost all of them involved increments of eight hours of absence or less:

On the dates on which you did not report to work at all, you generally phoned the office on the morning of your absence prior to my normal arrival time of 9 a.m., and told whomever answered the phone to tell me that you would “not be in today. Put me on sick leave.” On many of the other dates, you simply placed a leave slip on my desk while I was out of the office, requesting sick leave for the balance of the day. You then left without any discussion or approval of your absence by me or any other supervisory personnel. Unscheduled; departures due to sudden illness may be occasionally unavoidable; however, your unscheduled departure have now occurred on a number of occasions, and upon your return to duty you have neither offered any explanation nor evidenced any apparent concern for either the re-distribution of work which these have necessitated or the undue burden which they have placed on me or your co-workers. Moreover, during six of the last seven pay periods, you have absented yourself from duty for either all or part of the day before your compressed work day off, indicating by one of the above means that you were on sick leave. The procedures for requesting sick leave have been distributed to staff and posted on office bulletin for the last four years. You have not adhered to them – and in fact, your manner of requesting leave appears to be

calculated to avoid even a discussion with me or any other supervisor; personnel of either your absence or any ensuing work contingencies which we might have to cover. Such conduct, as well as your repeated absences immediately prior to your compressed work day off, raise serious questions about your reasons for using leave. Following your return to duty from such absences occurring over the last sixty days, have indicated concern about your health and your repeated absences. Although your absences are brief, repeated and frequently just prior to other scheduled time off, you apparently do not perceive any need to offer a credible explanation of them. You have offered neither an explanation, based on a particular or on-going health problem, which might result in incapacitation, nor evidenced any concern about the repeated re-distribution of work which your absences require your supervisors to make in order to meet office work expectations, and the undue burden which this places on your fellow workers. Thus your absences on the above specified occasions do not evidence respect for established procedure, and in fact, raise serious questions about whether you were. In fact, incapacitated for duty. For both of these reasons, your absences specified above appear to be an abuse of sick leave.

4. You are expected to correct such abuse of leave immediately. Should you not do so, the alternative available to me is to issue a memorandum imposing serious restrictions on your use of leave. These restrictions may include denial of the use of annual leave, unless requested and approved by me or the Assistant Director in advance -- that is, sufficiently in advance of the desired start of the absences that plans to cover work requirements can be made by your supervisors. (If there is evidence of abuse of sick leave, also add the following sentence). They also may include denial of sick leave unless supervisory personnel are notified of your illness in a timely and appropriate manner, and each absence is supported by acceptable medical documentation verifying that you were incapacitated for duty during the absences.
5. In addition, you should understand that whether or not such restrictions on your use of leave are imposed, any absence for which leave is denied may be charged to absence without leave (AWOL) .
6. In the event you have a personal, family, or other health problem which may be contributing to the attendance problems identified, DOL has the following resource(s) which you may elect to use:
  - (a) A professionally staffed, confidential employee counseling program, or EAP, which can help in identifying the nature/scope of a personal or family problem, identifying appropriate community resources which can offer further

treatment or rehabilitative assistance, and follow up services to determine the adequacy of such referral. Should you wish to explore the assistance which the EAP can offer, you should contact one of their counselors at \_\_\_\_\_. Their offices are located at \_\_\_\_\_. Should you wish to consult with them during duty hours, you may do so by obtaining prior approval of your appointment time with me, and by signing a consent provided by the EAP, authorizing them to verify to me that you are attending your appointment with them, and working with them to resolve whatever problems have been identified. Up to six hours of administrative leave may be authorized for this purpose.

NOTE: Should management need additional medical documentation on which to base an informed management decision, the following opportunity for assistance may also be added. This opportunity is governed by the provisions of 5 CFR 339, which authorize agencies, under specifically defined circumstances, to order or offer a physical and/or psychiatric examination(s) at agency expense. Such examinations may be made available only under the circumstances authorized by 5 CFR 339. Preferable, the employee should be given the opportunity to choose the examining doctor from a list of three appropriate physicians identified by the agency.

- (b) The opportunity to have a physical and/or psychiatric Examination(s) at the agency's expense. Should you wish to avail yourself of the opportunity, may elect one of three doctors identified to you by the agency to perform the examination(s). So that the results of such examination(s) may assist management in making informed decisions about your employment, you will be required to sign a written consent(s) acceptable to each of the examining doctor(s) whom you select, authorizing his/her release of the results of the examination to agency management. Should you wish to discuss this opportunity further, please so advise me. If you do not choose to do so, management may nevertheless later order you to undergo such an examination(s) if you:
  - (1) occupy a position which has medical standards or physical requirement; or
  - (2) have been released from your competitive level in a RIF and the position to which you have reassignment rights has medical standards or specific physical requirements which are different than those required in your current

position.

- (3) have applied for or are receiving continuation of pay or compensation as a result of an on-the-job injury or disease.
7. In accordance with a Memorandum of Understanding signed by the Department of Labor and the National Council of Field Labor Locals (NCFLL), AFGE, on \_\_\_\_\_, this memorandum is not grievable under the negotiated grievance procedure. Subsequently, should it become necessary to issue a Memorandum of Restrictions on Absences from duty, you would be entitled to grieve that matter.
8. I hope that you will address the concerns identified in this warning, and that such restrictions will not be necessary. However, if warranted, those restrictions may be imposed at any time with one year following the date of this memorandum.
9. Please feel free to discuss this matter, including any of the provisions of this memorandum of warning, with me, the employee relations specialist in the personnel office, or your union steward.

NOTE: Prior to issuance of this warning, supervisors should consult with the servicing personnel office to receive advice guidance.