

Wisconsin Human Resources Handbook

Chapter 408

Job Abandonment

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Sec. 408.010 Introduction

The purpose of this handbook chapter is to provide direction to state agencies regarding the process of addressing no call/no show occurrences and job abandonment by permanent state employees. 2015 Wisconsin Act 150 (Act 150) modified the job abandonment requirements applicable to all state employees.

Sec. 408.020 Statutory Authority

1. “If an employee fails to report for work as scheduled or to contact his or her supervisor, the appointing authority may discipline the employee. If an employee fails to report for work as scheduled, or to contact his or her supervisor for a minimum of 3 working days during a calendar year, the appointing authority shall consider the employee’s position abandoned and may discipline the employee or treat the employee as having resigned his or her position.” s. 230.34(1)(am), Wis. Stats.
2. Section ER 21.03 (2), Wis. Adm. Code provides that the effective date of the discipline, including termination, or resignation is the end of the last day worked

Sec. 408.030 General Job Abandonment Guidelines

An absence is considered a no call/no show if it is more than two hours past the scheduled start of an employee’s shift and the employee has not contacted the employer or arrived for his or her scheduled shift.

Failure to contact the employee during an employee occurrence of no call/no show, does not automatically mitigate the employee’s actions.

Discipline will be issued in accordance with Wisconsin Human Resources Handbook Ch. 410 – Employee Work Rules & Discipline Procedure. Progressive discipline will be imposed for the first and second incidents of no call/no show in a calendar year.

Note: A no call/no show is considered an attendance violation. However, specific circumstances surrounding a no call/no show may result in an additional finding of misconduct. Progressive discipline for FLSA exempt staff will be handled accordingly.

A no call/no show that results in two missed consecutive shifts within a 24-hour period is only considered one incident toward job abandonment (e.g. 1st shift and 2nd shift).

In most circumstances, agencies should treat the third no call/no show within a calendar year as a resignation due to job abandonment and a formal investigation is not needed.

The appointing authority shall notify the employee in writing that the employee is being treated as either having effectively resigned or has been terminated effective the end of the last date worked or if applicable the last date of approved eligible leave.

Only employees with permanent status in class in the classified service and those who have served with the state as an assistant district attorney or an assistant state public defender for a continuous period of 12 months or more may be considered to have resigned their position following three no call/no shows.

Sec. 408.040 One Incident of No Call/No Show Within a Calendar Year

For the first incident of no call/no show within a calendar year, an attempt to contact the employee will be made that day. Management may also reiterate to the employee the fact that three no call/no shows within a calendar year may result in the employee's position being considered abandoned. An investigation and pre-disciplinary meeting must be completed for the first no call/no show incident. Progressive discipline will be followed for the first no call/no show incident, when warranted.

Additional acts of employee misconduct that occur in the same time period may be combined with the no call/no show investigation, or may be investigated separately depending on the circumstances of the case.

Sec. 408.050 Two Incidents of No Call/No Show Within a Calendar Year

For the second no call/no show within a calendar year, an attempt to contact the employee will be made the same day. Management may also reiterate to the employee the fact that three no call/no shows within a calendar year may result in the employee's position being considered abandoned. An investigation and pre-disciplinary meeting must be completed for the second no call/no show incident. Progressive discipline will be followed for the second no call/no show incident, when warranted.

If there are two incidents of no call/no show prior to a formal investigation being conducted (e.g., an employee is a no call/no show for two consecutive days), each date must be investigated; this can be done via a single investigatory interview and pre-disciplinary meeting. Progressive discipline must be issued for each incident of no call/no show and two separate discipline letters must be issued, (e.g., 1-day & 3-day suspension issued to an employee who was a no call/no show for two consecutive days and had no previous discipline) when warranted.

Additional acts of employee misconduct that occur in the same time period may be combined with the no call/no show investigation, or may be investigated separately depending on the circumstances of the case.

Sec. 408.060 Three Incidents of No Call/No Show Within a Calendar Year

In most circumstances, when a third no call/no show incident occurs within a calendar year, it will result in the resignation of the employee due to job abandonment. For the third instance of no call/no show within a calendar year, an attempt to contact the employee will occur.

Resignation: For the third instance of no call/no show within a calendar year, which is treated as a resignation, the employee will be notified that his/her position is considered abandoned and that he/she is being treated as having resigned. The employer can ask the employee to explain whether there are any mitigating circumstances for the

third no call/no show incident. The employer may also convene a meeting to discuss any mitigating circumstances raised by the employee.

If there are three consecutive incidents of no call/no show, a formal investigation is not required for any of the incidents. For a third non-consecutive incident of no call/no show a formal investigation is not required.

Discipline: In limited circumstances the employer may choose to discipline an employee for a third no call/no show, instead of treating it as a resignation. In those cases where the employer treats the third no call/show incident as discipline, a formal investigation and formal pre-disciplinary hearing must be conducted, as outlined in *Wisconsin Human Resources Handbook* Chapter 410 – Employee Work Rules & Discipline Procedure

Sec. 408.070 Discipline and Resignation Acknowledgement Letters

In each discipline or resignation acknowledgment letter related to no call/no show incidents, the following language must be included:

Section 230.34 (1)(am), Wis. Stats. states, “If an employee fails to report for work as scheduled or to contact his or her supervisor, the appointing authority may discipline the employee. If an employee fails to report for work as scheduled, or to contact his or her supervisor for a minimum of 3 working days during a calendar year, the appointing authority shall consider the employee’s position abandoned and may discipline the employee or treat the employee as having resigned his or her position.”

Sec. 408.080 Administrative Information

This chapter was issued in September 2018 to address the uniqueness of job abandonment. The topic of job abandonment was previously addressed in Chapter 410 – Employee Work Rules and Discipline Procedure, of the *Wisconsin Human Resources Handbook*.

This chapter was updated in February 2021 to reflect the new State of Wisconsin Employee Assistance Program (EAP) vendor and to include sample language for the notification of unemployment insurance information to employees separating from state service as required by s. DWD 120.02, Wis. Adm. Code.

This chapter was updated in November 2023 to add clarifying language regarding the ability to combine instances of no call/no show with other misconduct, or to investigate them separately. Attachment #1 was also updated to remove language related to the filing of unemployment claims.

ATTACHMENT #1

SAMPLE RESIGNATION ACKNOWLEDGMENT LETTER

[Date]

[Name]
[Delivery Method]

Dear [Name]:

In accordance with Section 230.34 (1)(am), Wis. Stats. states, "If an employee fails to report for work as scheduled, or to contact his or her supervisor for a minimum of three (3) working days during a calendar year, the appointing authority shall consider the employee's position abandoned and may discipline the employee or treat the employee as having resigned his or her position." You have abandoned your position of [Classification], with the [Employing Unit], [Agency]. Therefore, we are considering you as having resigned from your position effective [Date].

This action is being taken because you failed to report to work as scheduled or contact your supervisor for three (3) working days in calendar year [Year]. Those dates of failing to report were [Date], [Date] and [Date]. Attempts to contact you were made on [Date], [Date], and [Date].

As required by law, anything meeting the definition of "public record" in s.16.61, Wis. Stats is property of your employing agency. Unless authorized by an applicable Records Disposition Authorization (RDA), you may not destroy public records or take your agency's only copy of a public record. If you wish to take duplicates of public records with you upon your departure, you must obtain prior approval from your supervisor.

I also want to make you aware of the Employee Assistance program which serves as a free, confidential referral service for obtaining outside services to support your well-being and resilience in work and life. Information about the program is available through [insert EAP Vendor information].

You are required to return any state issued items such as your uniforms, keys, identification card, etc.

Sincerely,

[Name Appointing Authority]
[Classification]

cc: **Personnel File**
Payroll