

Dealing With Unique Employee Scenarios



Presented by:

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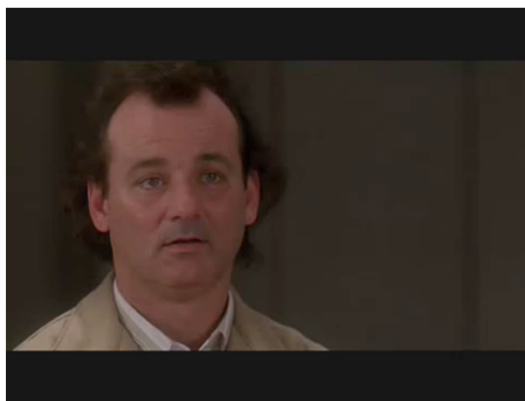
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Case Study 1: Dealing With Unique Employee Scenarios

Meet Bob – He has problems



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Scenario 1: Mental Health

The Scene:

Bob suffers from anxiety, which has increased to the point that he has difficulty performing his job. He comes to you with the issue and asks for modifications to some of his job assignments. He says he might need some time off.

Issues at Play:

• ADA:

- Does Bob have a disability?
- Is he qualified to perform the essential functions of his job?
- What are the essential functions of his job?
- What modifications or accommodations could be provided to Bob?
- Is leave a reasonable accommodation?
- Hardship?

• FMLA

- Is Bob requesting leave? Is he entitled to leave?

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Scenario 2: Religious Restrictions

The Scene:

Bob is a recent convert to the "Church of the Flying Spaghetti Monster." In addition to celebrating the Sabbath on Friday by drinking beer and relaxing, Bob wants to wear a spaghetti colander on his head at work. You have a dress code that prohibits caps in the workplace. Bob wears his spaghetti colander into work today. He tells you it's an important demonstration of his belief in the Flying Spaghetti Monster. What do you do?



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Scenario 3: Unique Health Claim

The Scene:

In a meeting to discuss discipline for his performance issues, Bob tells his supervisor he can't be disciplined because he has multiple chemical sensitivity disorder which prevented him from doing the required task at issue.

Issues at Play:

- Is multiple chemical sensitivity disorder a "disability"?
- Is the ADA in play?
- Can he still be disciplined for his performance issues?

Scenario 4: Bob Is "Sick"

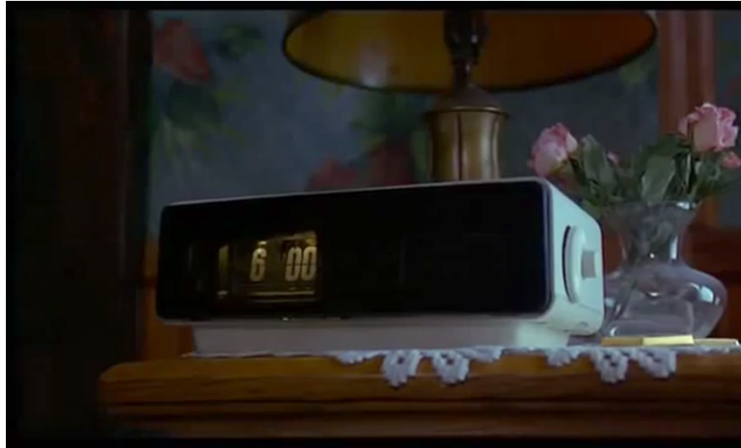
The Scene:

Bob calls in and says he is "sick" and offers no other information. What do you say in response?

Issues at Play:

- Need to gather sufficient information to determine if sick leave rightfully applies.
- Information-gathering and privacy concerns
- For multiple-day absences, the FMLA may be triggered.

Scenario 5: Bob Has Come Down With the “Mondays” Again



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Scenario 5: Bob Has Come Down With the “Mondays” Again, cont'd

The Scene:

For 3 of the last 5 Mondays, Bob has called in “sick.” You begin to suspect that Bob has just been having too much fun on the weekend and can’t drag himself out of bed.

Issues at Play:

- How to respond?
- Is disciplinary action appropriate?

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Scenario 6: Bob – The Overrated Underperformer

The Scene:

Bob is a poor performer who skirts under the radar, never receiving discipline but still manages to get “meets expectations” on his performance appraisals.

Issues at Play:

- Performance evaluations should be indicative of actual performance.
- Additional training is probably needed for the reviewers.
- Performance deficiencies should be documented. Poor performers with neutral or positive performance reviews make great plaintiffs.
- These “bottom of the curve” employees know how to work the system—do just enough to get by and fly under the radar.

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Scenario 7: Bob the Harasser



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Scenario 7: Bob the Harasser, cont.

The Scene:

Bob has taken a liking to Ned, which is not welcomed. Bob has made comments to Ned that have made Ned uncomfortable. Bob also hugged Ned, who ran awkwardly to his supervisor and complained.

Issues at Play:

- Can one male employee sexually harass another male employee?



Scenario 8: Bob's Annoying Habits



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Scenario 9: Bob's Annoying Habits, cont'd

The Scene:

Bob has an annoying habit (pick one). It is driving one of his co-workers mad, and the co-worker has complained to you.

Issues at Play:

- Does the annoying habit have anything to do with a protected characteristic? Disability related?
- If not, be direct and courteous in addressing the issue.
- Balance exercising leadership v. becoming involved in petty issues.

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Scenario 10: Bob's Unique FMLA Issues

The Scene:

Bob breaks up with his girlfriend and tells everyone how distraught he is. He brings in a note from his counselor stating that he is suffering from depression and will need an unspecified amount of time off work.

Issues at Play:

FMLA
Covered?

FMLA
Intermittent
Leave

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