

Be fair about leave requests, or prepare to defend against discrimination lawsuit

Leave is just as valuable as wages to many employees. That's why it's essential to administer leave benefits fairly and equitably.

Denying one worker's leave request while allowing another worker to take time off could trigger a lawsuit if someone from another protected class got to take more leave.

Recent case: Clement, who is black, was a caseworker for Sullivan County. He asked to take two hours of personal leave, and his request was approved.

Before he left, however, another supervisor denied Clement's request and told him that if he left, he could be docked.

Ultimately, he did leave—and ended up being terminated for insubordination.

Acting as his own lawyer, Clement sued for race discrimination. He claimed other workers who were not black routinely had their personal leave requests approved with no apparent problems.

Because he did not include specific examples, the court said it was inclined to dismiss his case. But because Clement was representing himself, the court said it would give him another chance. It invited him to amend his complaint with specific examples of how non-black workers had leave approved and not rescinded. If Clement can do that, the court will reinstate the lawsuit. (*Whittle v. County of Sullivan, et al.*, SD NY, 2017)

Final note: Before disciplining anyone, make sure you compare how others with similar disciplinary histories and transgressions were punished. If you find a pattern that reflects differing discipline for members of some protected classes, consult your attorney before making a final decision.