

Medical Inability to Attend Hearing or Appeal

Northern California Conference of Seventh-day Adventists' ("the Conference")
Policy Supplement to Pacific Union Conference Education Code Section 3650.

- I. Once an employee is notified of the right to a hearing or an appeal, the employee's written request for a hearing (required by Education Code §3650(D)(2)) must be submitted within 2 weeks of the aforementioned notice.

- II. An employee is expected to attend the hearing or appeal on the date scheduled in the notice to the employee described by Education Code §3650(C)(1). If an employee states that he or she is unable to attend the hearing or appeal for medical reasons, the following procedures shall apply:
 - a. The Conference may require sufficient certification from the employee's physician that the employee is unable to attend an employment hearing or appeal. The certification should, at a minimum, set forth:
 - i. The date on which the employee's medical condition commenced;
 - ii. The probable duration of the condition; and,
 - iii. The appropriate medical facts within the knowledge of the health care provider regarding the condition and an explanation as to why these medical facts prevent the employee's participation in the hearing or appeal.
 - b. The Conference may require the employee to submit to a medical evaluation by a physician of the Conference's own choosing, and at its own expense, for the purpose of obtaining a second medical opinion regarding whether the employee is medically unable to attend the hearing or appeal.
 - i. The physician shall not be regularly employed or utilized by the Conference unless the employee is located in an area where healthcare is extremely limited.
 - ii. The second medical opinion shall be subject only to the condition that the examination may not include a diagnostic test or procedure that is painful, protracted, or intrusive. The drawing of blood or the taking of a urine sample shall be permitted provided it is reasonably necessary for the determination of medical facts needed to form the basis of an opinion that the employee is medically unable to attend the hearing or appeal.
 - iii. The second opinion shall specify, when solicited by the Conference, what reasonable accommodations could be

made in the hearing or appeal process that would allow the participation of the employee.

- c. If the second medical opinion differs from the employee's original assertion or certification that he or she is medically unable to attend the hearing or appeal, the Conference may, at its own expense, require that the employee submit to another medical evaluation for the purpose of obtaining the opinion of a third health care provider designated or approved jointly by the employer and the employee. This third opinion shall be binding.
 - d. The employer may require the employee to obtain subsequent recertifications on a reasonable basis.
- III. It is not beneficial to the school, the Conference, or the employee to delay the resolution of employment disputes. Thus, when a medical opinion sets forth that an employee will be medically unable to attend an employment hearing or appeal within 60 days, the Conference may conduct the hearing or appeal and require the attendance of a representative of the employee. This representative may not be an attorney. The employee or representative will be given 30 days notice of the hearing or appeal in order to properly prepare. If the employee fails or refuses to designate a representative, the proposed status change may be acted upon without the hearing or appeal.