

## CASE STUDY #1

**Imajeane Hert** has been a special education instructional assistant in a self-contained classroom for students with serious behavioral difficulties. She has worked for your 3000-student school district for many years. She has had long-term chronic back problems, which have never been really debilitating, but she has protested about having to move around a lot, especially on playground duty. Her work when seated in the special education room with a small group of students has been evaluated as meeting standards. However, beginning last fall she started to raise concerns about being required to take restraint training, or assist in any way with students who were acting out physically.

In early November, Imajeane fell on the playground, which resulted in time loss and medical bills, which were covered by your Workers Compensation insurance. She used sick leave to supplement the WC pay, so she is totally out of sick leave. She was off-work a total of 61 work days; then you put her on light duty in the front office for two weeks at the insistence of your WC carrier. Now she has been released by the WC doctor as having healed from the fall.

However, she has presented another doctor's note that due to her back problems (not associated with the fall), she cannot perform any physical activities, including recess duty or restraint, or anything else that might jar her vertebrae. She says she would like to continue working in the office, but her skills are marginal and the job there was created only temporarily.

WHAT ARE IMAJEANE'S RIGHTS UNDER APPLICABLE LAWS/C.B.A.?

WHAT STEPS WILL YOU TAKE TO DECIDE HER JOB STATUS?

## CASE STUDY #2

**Myra** is a probationary teacher who has shown a lot of promise, but this year (her second year) she has missed 22 days of work, many of them for migraine headaches. Some days she comes to work but then has to leave during the first hour due to the onset of a migraine. Other absences are usually with little advance notice., and many are on Monday or Friday. Because she has not missed more than three days in a row, she hasn't been asked for a doctor's letter to verify the illness or to say she is fit to return.

The HR office was unaware of the number of days she had been absent until the business office gave notice that in January she would exhaust all her sick leave (she is now asking for leave days from the CBA sick leave bank). At that point, you sent out the OFLA/FMLA paperwork, and got back this response from the nurse practitioner who signed: "Myra will most likely have absences 1-3x per month, each lasting 1-3 days, due to migraine headache. These are usually sudden onset, so she cannot give you advance notice. Although we are trying some different therapies, at this point there doesn't seem to be any success. When she has a migraine she needs to lie quietly in a dark room until she feels better."

Because of her frequent absences, she has not been observed the required number of times, so no evaluation was done in February (as your procedure calls for) and she was automatically renewed. Not surprisingly, with all these absences the class is suffering because there aren't any lesson plans many days, and a host of different subs were employed at the last minute.

WHAT LAWS AND C.B.A. PROVISIONS ARE APPLICABLE?  
WHAT CAN YOU DO?



### **CASE STUDY #3 -- DRUGS AND ALCOHOL**

You are a principal in a school district that has a comprehensive drug and alcohol policy which prohibits the possession, use or being under the influence of drugs or alcohol while on duty.

Tim is a contract teacher in your school, who has historically been a decent employee. Near the start of this school year, however, you noticed that he was having significant mood swings, and was frequently appearing late for meetings and other responsibilities. You talked with him about it, but he just apologized and told you he would make sure to be more punctual. Late last week, however, things took a turn for the worse when an instructional assistant reported to you that she smelled alcohol on Tim's breath and he seemed to be slurring his words. You went to confront him and could not detect any noticeable odor, although he did seem to be acting a bit odd. He explained that he was having low blood sugar and needed to eat something.

Yesterday, you received a call from the parent of a middle school student in the district. The parent requested that her child be removed from Tim's class do to an interaction she had with him that made her uncomfortable. After some prodding, she informed you that Tim lived at the same apartment complex that they did. During the summer, Tim had apparently been down at the apartment's swimming pool in what appeared to be an extremely intoxicated state. In fact, he was so intoxicated that he disrobed and was walking around the pool area naked. The caller's daughter and some friends were at the pool at the time, and Tim attempted to engage them in conversation, but was so out of it they could not understand what he was saying. The girls quickly left the pool area and the parent called the police. To her knowledge, no criminal complaint had been filed.

You call Tim in for an investigatory meeting and he confirms that he lives at the apartment complex in question. He does not deny engaging in the behavior in question, but states that he had been drinking so frequently at that time that he cannot remember much. In fact, he says that he has a severe alcohol problem, and would like to take a leave of absence so that he can enter treatment.

- **Are there any drug/alcohol testing issues presented?**
- **Can you take disciplinary action against Tim? For what?**
- **Are there any FMLA/OFLA or ADA issues presented?**