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## Unlimited vacation policies—good idea or license to slack?

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Employers have long used paid vacation as a benefit and a way to enhance employee productivity. To keep pace in a competitive market, many start-ups offer “unlimited” paid vacation. While there are certain benefits to such policies, there also are risks.

### Benefits of unlimited vacation policy

Unlimited vacation enthusiasts assert that these policies boost morale by treating employees as responsible adults, allowing greater freedom to take vacation as needed and the flexibility to manage work and personal time. Furthermore, time off work enhances an employee’s work-life balance, resulting in efficiency and productivity while he is at work.

From an employer’s perspective, allowing unlimited vacation time offers employees a job perk at little or no overhead cost. Such policies also reduce the administrative burden of tracking vacation or PTO. Finally, because employees are not “accruing” paid vacation time, depending on state laws, employers may be able to avoid reimbursing terminated employees for accrued but unused vacation.

### Pitfalls of unlimited vacation policy

Critics argue that “unlimited vacation” policies are susceptible to abuse. Further, these policies do not eliminate the need for employers to manage employee vacation schedules in light of business requirements. And since most employers will continue to track and restrict the amount of vacation taken by employees, employees may argue that an unlimited vacation policy is really not unlimited. If it appears as though employees are technically accruing paid vacation, an employer may still be required to pay out accrued but unused vacation upon termination.

Employers also must carefully align an unlimited vacation policy with an employee’s right to other leave benefits, including sick leave, family and medical leave, military leave, and pregnancy leave. Otherwise, a crafty employee may try to argue that an unlimited vacation policy requires full payment of all leave time. Finally, when an employer allows employees to take vacation as needed but simultaneously expects them to remain online and available, the benefits of vacation can be negated, potentially hurting morale.

### Implementing vacation policies

Any vacation or PTO policy should be clearly articulated in a company’s handbook and disseminated to employees. Unlimited vacation policies are generally more appropriate for exempt employees, who already have a substantial degree of flexibility and responsibility in managing their work and time. Traditional vacation policies are generally more appropriate for nonexempt employees, who are compensated for hours worked and therefore will not generally take time off without the assurance of some form of paid vacation.

Any vacation policy should clearly explain which classifications of employees are eligible for paid or unlimited vacation. Communicate that employees must meet productivity expectations regardless of vacation used and explain that any abuse of a vacation policy may result in discipline, up to and including termination. Require management approval of vacation requests but also ensure that managers uniformly administer the request and approval process to avoid claims of favoritism or discrimination.

If you switch to an unlimited vacation policy, provide employees with reasonable notice and sufficient time to use their preexisting benefits. You may also choose to cash employees out by paying them for accrued but unused vacation at the time of the transition.

## Bottom line

While unlimited vacation policies do offer certain benefits, the law on such policies is undeveloped, and employers must pay careful attention to implementation and administration to minimize legal risks.



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