Is Unlimited Vacation Right for Your Company?

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Agenda

• Unlimited Vacation—What is it really?
• Statistics
• Advantages/Disadvantages
• FMLA Challenges
• 3 question test—Is it right for your company?
• Implementation—Lessons Learned
• Best Practices and Policy Examples
• Key Takeaways
I am not a lawyer and cannot give legal advice. It’s also best to consult with your employment counsel when considering or implementing a new policy to ensure it’s compliant with state and federal laws.
Unlimited Vacation—What is it really?

An **unlimited vacation** policy is similar to a PTO policy except employees are not given an allotted number of days off. Employees can take as many vacation and sick days as they need, as long as they are meeting their performance goals and are within company set guidelines.

Synonyms:
Unlimited Vacation, Unlimited PTO, Unlimited FTO, FTO, Flex Time Off
Statistics

- Primarily offered in High Tech and Creative Fields
- 13—average number of days employees with unlimited plans take*
- 15—average number of vacation days in traditional vacation plan
- 2013—1% of companies offered unlimited vacation
- 2018—3% of companies offer unlimited vacation
- 2019—100% of high-tech companies**
Advantages

• More Flexible Work Schedule
• Vacation Payout Liability
• No Cost/Low Cost Perk
• Increased Productivity
• Morale Booster
• Easier Record Keeping Practices
Disadvantages

- Employee Perception—No Vacation
- Abuse Challenges
- Grey areas
- Scheduling Uncertainties
- Non exempt hourly
FMLA Challenges

- Unlimited vacation is not a replacement for FMLA or State Protected Leaves
- Clearly define at what point continuous time off transitions to leave of absence
- Intermittent Leave challenges—tracking and compliance
Is Unlimited Vacation Right for You?

1. What percentage of your company is exempt vs. non-exempt?
2. How autonomous is your population?
3. Do you have a culture of trust?
Best Practices

- Written Policy
- Transition to the new policy. Have a policy for disability leave and other statutory required leaves, such as FMLA. Those leaves should be handled separately and are not unlimited.
- Vacations must still be scheduled in advance with a manager and are allowed for the convenience of the company. Be fair and consistent with your team!
- Maintain high performance standards. Reserve the right to review employees’ use of the policy and reserve the right to discipline or terminate employees for abuse.
- Exclude non-exempt employees.
- Encourage employees to take time off for vacation. Be an example.
Sample Policy

Unlimited Vacation Policy

We recognize the continued blurring of lines between home and work life, and as a performance-based and results-driven company, we want to give you the control and flexibility to make decisions that best serve the company AND your family. That's why we moved to an unlimited vacation structure for U.S. salaried/exempt employees.

Although we use the word “unlimited,” there are still guidelines that need to be followed to ensure compliance with FMLA and the success of our business objectives.

Process to Request Vacation Time

You will need to receive approval from your manager prior to taking any vacation time off. It is highly recommended that a minimum of 2 weeks notice is provided to ensure that proper coverage.
Sample Policy (continued)

Employee Responsibilities:

- Request vacation time off from your manager at least 2 weeks in advance.
- Be mindful of pending deadlines, projects and other business needs prior to submitting vacation requests.
- If the request is 3 weeks or longer, connect with the benefits team to review to ensure FMLA compliance.
- Properly hand off work with coworkers for proper coverage. Customer calls, staff meetings, other time sensitive responsibilities must be covered.
- We require anyone needing time off for medical reasons that last longer than 1-week use FMLA leave. For compliance reasons, it is important medical time off is tracked through FMLA. You may not use sick or vacation time for these types of leaves.

Manager Responsibilities:

- Set clear expectations with your employee.
- If an employee is in the middle of a product launch or has a looming deadline, they will be expected to complete their work prior to going out on vacation so they are not leaving the company in a bad situation.
- Ensure you have proper coverage on your team prior to approving the vacation request.
Manager Best Practices—Policy Example

Offering unlimited vacation aligns with our company values and shows a culture of trust, transparency and collaboration. Even though it is unlimited there are still guidelines that need to be followed to ensure compliance with FMLA and to ensure that our business is still successful. Also, offering unlimited vacation does not mean that all vacation requests are automatically granted. It is important that we also view the needs of the business prior to approving a request.

**Process to request leave:**

- The Employee will need to receive approval from their manager prior to taking any vacation time off. It is highly recommended that a minimum of 2 weeks’ notice is provided to ensure that proper coverage can be identified before the employee goes out on vacation.

- To ensure compliance with FMLA, if you have an employee who request (3) three weeks or longer for vacation that you coordinate with benefits to confirm the reason for the vacation. We require that anyone needing time off for medical reasons that last longer than 1-week use FMLA leave. It is important that medical time off is tracked through FMLA for compliance reasons that employees are not using vacation or sick time for these types of leaves.

- Before an employee goes out on vacation it is important that the manager is clear with expectations. If an employee is in the middle of a product launch or has a looming deadline, they will be expected to complete their work prior to going out on vacation so that they are not leaving the company in a bad situation. Also, if you don’t have proper coverage for the vacation request then it is at your discretion to decline the vacation.
Manager Best Practices—Policy Example (continued)

Reasons to decline vacation:
- Employee is in the middle of a project, deadline, etc. and will not finish before vacation
- You already have other employees on vacation at the same time and won’t have coverage
- The employee is requesting excessive duration for vacation and you won’t have coverage

Employee responsibilities:
- Request the vacation time off from manager at least 2 weeks in advance. If requesting 3 weeks or longer, connect with benefits team for review to ensure FMLA compliance.
- Properly hand off work with coworkers for proper coverage. Customer calls, staff meetings, other time sensitive responsibilities must be covered
Sample FAQs—General

Why are we moving to Unlimited Vacation?
This is aligned to our company values of putting people first. We want to provide flexibility for our employees to manage their lives and to reduce burnout.

Is there a certain number of days allowed in the year for vacation (min/max)?
No, there is no minimum or maximum. It is expected that employees will take time off to attend to personal matters and for relaxation. This is truly an unlimited vacation policy but please note that there are certain limitations if an employee is seeking time off for medical purposes. Please see leave of absence FAQ below.

How do I request vacation time off?
Request is made by contacting your manager, preferably by email, at least 2 weeks in advance. Managers will grant permission for the time off based on business needs and may deny the vacation if it will be disruptive to the business.

What is considered inappropriate use of vacation policy?
Inappropriate use would be not taking any time off (we all need a break!), taking excessive amounts of time that impacts the business or not providing notice and receiving approval from your manager before taking time off.

Will I get paid out vacation time if I leave the company?
No, because the policy is unlimited there is no accrual or set number of vacation days to track or to pay out against.

Does seniority matter regarding how much time I can take off?
No, seniority is not a factor in how much time you can take off. Everyone is granted unlimited vacation, but it is important to keep in mind that performance can be impacted by the amount of vacation someone takes. We are a performance-based company so it’s important to keep in mind how much vacation you decide to take and the impact it could have on your own performance.
As a manager, what is expected of me?
You are expected to respond timely to your employee’s vacation request and to treat all requests fairly.
• You are to set expectations and ensure proper coverage for the business.
• Be an example and take time off to show your employees that this is expected.
• Practice transparency and share with your employee if you have to deny the vacation based on business need and why. Work with your employee to find alternatives.
• Ensure that your employees are not inappropriately using the policy by either taking extensive amounts of time off or no time off.

As an employee, what’s expected of me with regards to this policy?
• To request time off at least 2 weeks in advance.
• Meet with your manager to understand coverage and/or expectations while you’re out.

Depending on business need, you may not be permitted to take time off. Your manager will explain this to you if your request is declined.

What is an example of appropriate use of the unlimited vacation without impacting the business?
• An example of appropriate use would be if an employee travels home to India for Winter Holidays in December and wants to go for 2-3 weeks but works out with their manager that they would check in a few times for work as needed.
• An example of an inappropriate use of the unlimited vacation policy that does impact the business would be someone taking 8 weeks off without handling important business matters.
Can vacation time be used to supplement unpaid FMLA or Short-Term Disability pay?

No, vacation time is intended for vacation or short personal time off and is not for extended illness or injury. It is not to be used to replace leave of absence under the Family Medical Leave Act (FMLA) or other state leaves (CFRA, OFLA, etc). As such, if you are absent from work for illness or injury for 5 or more consecutive working days, you are required to apply for approval under the FMLA policy for a leave of absence.

If I take a maternity or paternity leave, can I take vacation time at the end of the leave?

Yes, following the leave you can request to take vacation time off. You would want to coordinate this with your manager for approval. As a reminder, vacation time is not a substitute for FMLA or other medical leaves. Please refer to the leave policy for any questions.
Implementation—Lessons Learned

- Communicate, communicate, communicate!
- Early partnership with legal
- Buy-In from Leaders (all levels, not just C-Suite)
- Cost of accrued vacation payout
- Socialize in advance
- Manager Training
- Follow Up
Key Takeaways

- Determine if unlimited vacation works for your company and culture.
- Communicate often and frequently about the benefit.
- Socialize early with leadership before implementing and engage counsel on policy.
- Facilitate a culture that encourages employees to take time away from work.
- Unlimited vacation time can be a strong benefit that increases employee, engagement, productivity, and retention.