

Lawyer Insights

Viewpoint: Minimize Vacation Scheduling Conflicts in the Pandemic

By Amber M. Rogers and Jayde M. Ashford
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Many employers will need all hands on deck once shelter-in-place orders are lifted. In a perfect world, employees would return to the workplace and seamlessly divide their vacation requests throughout the remainder of the year. In reality, employees may immediately seek to take time off, causing an influx of overlapping vacation requests. Unfortunately, this can make vacation scheduling another challenge employers will face once employees return to worksites and create, potentially, a serious business disruption.

No company wants to encounter understaffing issues or have key employees missing in action during a time when their contributions are most needed. Following are some strategies for your company to manage vacation requests and minimize business disruptions through a high-volume period.

Evaluate Existing Policies

As a first step, it is important to evaluate employee leave rights under existing policies and local and state laws. For instance, does the policy include an annual allotment or an accrual bank approach? Do vacation days roll over or expire? It may not be an easy task to balance the needs of the business and keep employees happy but having a solid grasp of the gaps in an existing paid-time-off (PTO) policy allows the company to identify areas with room for improvement and tailor a new policy to strike a fair balance.

Tailor the PTO Policy to Mitigate a Worst-Case Scenario

Employers may want to contemplate the company's "worst-case scenario" regarding vacation requests and implement PTO policies that address any concerns. Assessments will vary based on company industry and employee headcount, among other factors. Consider the following nonexhaustive list of examples:

- Employer A, a large employer with numerous departments, determines it is well-equipped to grant vacation requests of any duration, provided it ensures that the absent employee's job duties are covered. It may be sufficient for Employer A to slightly revise its existing PTO policy by implementing a rule that all vacations must be scheduled by a certain date or within a certain number of days prior to the desired time off. Employer A might also consider allowing employees to swap vacation times or donate vacation time to other workers, provided such changes will not affect productivity.

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- Employer B, a midsize employer, determines that it can accommodate overlapping requests for vacations of short durations. Nonetheless, it would suffer a business hardship if any employee were to take a large chunk of vacation days in a row. Employer B might benefit from implementing a PTO policy that restricts the number of days in a row that employees can take vacation.
- Employer C expects each department to have different customer demands, and some departments expect to be busier than others in the months immediately following the height of the pandemic. Employer C might benefit from implementing a PTO policy that includes limits on the number of employees within each department allowed to take vacation at the same time. Alternatively, it can consider limiting the amount of vacation days that will be granted within a specific period.
- Employer D has a lean staff due to coronavirus-related layoffs. Employer D determines that it would be unable to maintain productivity if any employees take off for even a couple of days in the months immediately following the height of the pandemic. Employer D might benefit from allowing employees to sell a portion of their vacation time back to the company or implementing a vacation blackout period for those months and any other periods of expected high demand.

Consider Designating Vacation Blackout Periods

Establishing a block of dates during which employees cannot schedule time off due to an expected increase in business traffic may be the best way to prevent business hardship and satisfy returning customers' needs. A potential starting point is collaborating with business leaders and managers to identify and establish periods of critical importance for the business. Next, consider creating clear and concise written guidelines so that everyone understands how the vacation request system works.

While the blackout rules should be applied in a fair manner, in some instances, making reasonable accommodations for employees who have an urgent need for leave may be appropriate (e.g., the need to travel for medical or bereavement purposes). Vacation blackout periods should not conflict with any collective bargaining agreements union members may have, or any state or local laws. It may be wise to consult with counsel before instituting any such policy.

Examine Other Possible Policy Adjustments

Consider taking the pressure off employees to use their vacation by the end of the year. By changing a "use-it-or-lose-it" policy to allow a number of days to roll over up to a certain limit, the company provides employees with more peace of mind over unused vacation days.

If your company expects a myriad of employees to request time off at the same time, a first-come, first-served basis for granting requests may no longer be the most appropriate system. Switching to a system of seniority may provide a greater sense of fairness and make it easier to administer requests.

Establish and Implement Your New PTO Policy

Employers should clearly outline in writing the steps an employee needs to request vacation and communicate the new policy to employees as soon as possible so that they can effectively manage their

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expectations when planning their time off. Be sure to train management-level employees on how to effectively and consistently communicate and administer the new PTO policies.

Amber M. Rogers is a partner in the firm's labor & employment group in the firm's Dallas office. Amber's national practice assists clients with traditional labor relations and litigation, employment advice and counseling, and complex employment litigation. She can be reached at +1 (214) 468-3308 or arogers@HuntonAK.com.

Jayde M. Ashford is an associate in the firm's labor & employment group in the firm's Dallas office. Jayde represents corporate clients in all aspects of employment matters arising under federal and state law, including, but not limited to, Title VII, the FLSA, the FMLA, the ADA and the ADEA. She can be reached at +1 (214) 659-4719 or jaydebrown@HuntonAK.com.

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