

Vacation Frequently Asked Questions Table of Contents

1. [Can a company have a policy that vacation must be used by a certain date or it is lost?](#)
2. [If an employer has a vacation policy, which allows employees to take reasonable amount of vacation during the course of the calendar year subject to business needs and the employee's own judgment and the policy does not provide for the employee receiving a defined number of days after a defined period of employment, is the employer obligated to pay an employee who separates from employment a monetary equivalent equal to the amount of vacation pay to which the employee would otherwise have been allowed to take during that year but had not taken.](#)
3. [When I separate from employment, does my employer have a legal obligation to pay me vacation?](#)
4. [If I quit or am fired, am I entitled to payment for my unused accrued vacation time?](#)
5. [If I quit or am fired, am I entitled to severance pay, sick pay or holiday pay upon separation?](#)
6. [If I quit or am fired, am I entitled to the vacation pay that I had accrued?](#)
7. [If you leave a company, they agree to pay you your two weeks of accrued vacation. Are you also entitled to the extension of insurance for those two weeks?](#)
8. [Does Section 300.520\(h\) of the regulations prohibit a "use it or lose it" vacation policy?](#)
9. [Is the employee entitled to any vacation earned from January 1 through June 30 while the use it or lose it policy was in effect?](#)
10. [If an employer has a calendar year "use it or lose" it accrued vacation policy and an employee fails to take all earned vacation by the end of the calendar year, is that time forfeited?](#)

Vacation FAQs Responses

1. Can a company have a policy that vacation must be used by a certain date or it is lost?

Yes. See [Section 300.520](#).

2. If an employer has a vacation policy, which allows employees to take reasonable amount of vacation during the course of the calendar year subject to business needs and the employee's own judgment and the policy does not provide for the employee receiving a defined number of days after a defined period of employment, is the employer obligated to pay an employee who separates from employment a monetary equivalent equal to the amount of vacation pay to which the employee would otherwise have been allowed to take during that year but had not taken.

Yes, but the employer would not be obligated to pay any monetary equivalent for earned vacation for a future calendar year.

3. When I separate from employment, does my employer have a legal obligation to pay me vacation?

If an employment policy states that an employer does not have to pay at the time of separation all unused vacation, the employment policy is not allowed to provide for a forfeiture of earned time upon separation.

The employer is required to pay the monetary equivalent of all earned vacation to an employee who resigns or is terminated without having taken all vacation time earned in accordance with such individual employment contract or policy.

Individual examples of the Act's application are set forth below,

Example 1. The company has a policy that provides for five days of paid vacation after one year of service and all vacation not used shall be forfeited at time of termination. The employee completes one year of service as of July 1, and leaves employment on October 1, without having taken any vacation. Upon separation the employer must pay the employee the monetary equivalent of five days' vacation pay for the vacation earned as of July 1, and the pro rata vacation earned for the months of July through September. Since the employee worked three out of twelve months or 3/12 or 25% of the twelve-month period after July 1 and the employer must pay the employee pro rata vacation for the period notwithstanding the terms of the written policy.

Example 2. The company has a policy that provides that vacation is computed as January 1 of each year based upon service completed as of January 1. The company's vacation schedule states that employees who complete six months of service as of January 1st of each year shall receive one week and employees who have completed one year of service as of January 1 shall receive two weeks of vacation. Employee A has completed seven months of employment as of January 1, and separates from employment on the following July 1. Employee A has taken five days of paid vacation after January 1. Upon separation the employer must pay the employee the monetary equivalent of five-days vacation pay even though the employee was not employed as of the following January 1,

but notwithstanding the policy, Employee A is entitled to pro rata vacation for the period following January 1. Employee A has received all vacation earned as of the prior January 1, but the employee has earned vacation pay for the months of January through June (6 months) or 6/12 or 50% of the ten days the employee would have been entitled to receive on the following January 1.

Example 3. The company has a policy that provides that vacation is computed as January 1 of each year based upon service completed as of January 1. The company's vacation schedule states that employees who complete six months of service as of January 1st of each year shall receive one week and employees who have completed one year of service as of January 1 shall receive two weeks of vacation. Employee A has completed one year of employment as of January 1 but has not taken any earned vacation after January 1. Employee A separates from employment on the following July 1. The employer would have to pay the employee 10 days for the vacation earned but not taken as of January 1 and the employee is entitled to pro rata vacation for the period following January 1. Employee A has earned vacation pay for the months of January through June (6 months) or 6/12 (50%) of the ten days the employee would have been entitled to receive on the following January 1.

Example 4. The company has a policy that provides that vacation is computed as January 1 of each year based upon service completed as of January 1. The company's vacation schedule states that employees who complete six months of service as of January 1st of each year shall receive one week and employees who have completed one year of service as of January 1 shall receive two weeks of vacation. Employee A only had five months of employment as of January 1 and quits as of January 2. The employer is required to pay the employee the monetary equivalent of 5/12 of five days-vacation pay for the five months earned prior to January 1.

Example 5. The Company has a policy that provides that employees are credited for vacation as the Employee works with the policy providing that for each month of employment an employee earns one vacation day. If Employee A separates from employment after working three months and Employee A has taken three vacation days, the employer does not owe Employee A the monetary equivalent of any vacation pay upon separation. If Employee A has not taken any paid vacation, the employer would owe me the monetary equivalent of three vacation days.

4. If I quit or am fired, am I entitled to payment for my unused accrued vacation time?

Yes. A former employee has a claim under the Act for the collection of the monetary equivalent of his/her vacation time earned in accordance with an employment contract, agreement or policy. See [Section 300.520](#)

5. If I quit or am fired, am I entitled to severance pay, sick pay or holiday pay upon separation?

An employee is not entitled to severance pay, sick pay or holiday upon separation, unless the employer has promised the pay in an employment contract or other agreement. See [Section 300.520](#)

6. If I quit or am fired, am I entitled to the vacation pay that I had accrued?

Yes. See [Section 300.520](#).

7. If you leave a company, they agree to pay you your two weeks of accrued vacation. Are you also entitled to the extension of insurance for those two weeks?

The laws covered by the Illinois Department of labor do not cover insurance benefits. You may want to contact the U.S. Department of Labor, Employee Benefits Security Administration for an answer to your question.

8. Does Section 300.520(h) of the regulations prohibit a “use it or lose it” vacation policy?

No. An employer may utilize a “use it or lose it” vacation policy as long as it is in accordance with 56 Ill. Adm. Code 300.520(f) and as long as the employer gives the employee a reasonable opportunity to take the vacation and the employer can demonstrate that the employee had notice of the “use it or lose it” nature of the policy (300.520 (e)). However, an employer cannot change a vacation policy in which vacation time *already earned* is forfeited by an employee because 56 Ill.

Adm. Code 300.520 (h) provides “An employer cannot effectuate a forfeiture of earned vacation by a written employment policy or practice of the employer. ”

For example, employer A has a use it or lose it policy that runs from January 1 to December 31 and the time is earned as the employee renders service to the employer at a rate of 10 days per year. On July 1, Employer A decides to change its vacation policy in its employee manual and eliminates the use it or lose it policy.

9. Is the employee entitled to any vacation earned from January 1 through June 30 while the use it or lose it policy was in effect?

Yes, the employee would be entitled to 5 days of vacation which is what the employee earned from January 1 through June 30. ($6/12 \times 10 = 5$ days). Regardless of the employer’s decision to change its vacation policy in the middle of the year, the vacation earned up until the date of the change is due to the employee.

10. If an employer has a calendar year “use it or lose” it accrued vacation policy and an employee fails to take all earned vacation by the end of the calendar year, is that time forfeited?

Yes, as long as the employer complied with Section 300.520(f) and 56 Ill. Adm. Code 300.520 (h) which provides that such a policy must give the employee a reasonable opportunity to take the vacation and the employer can demonstrate that the employee had notice of the “use it or lose it” nature of the policy, there is no violation of Section 300.520 (f) and (h) and vacation days not taken by the end of the calendar year are lost.