



HR Examiner

Examining practical HR issues business owners and managers encounter every day

It's Vacation Time

October 2006

HR Mastery Groups

In the September issue, I introduced the HR Mastery Groups that I'm forming in partnership with the Stanton Group.

If you're looking for an opportunity to meet monthly with other HR professionals or other individuals with HR responsibilities, this may be a perfect opportunity for you.

Paying Vacation: An Employer's Obligation

I've been struggling internally with the recent onslaught of news from various Minnesota law firms and HR resources regarding the handling of vacation pay at termination of employment.



In a nutshell, in August 2006 the MN Court of Appeals ruled that employers must pay employees all of their earned but unused vacation when their employment terminates. Many employee handbooks, including some I've written, have clauses in them that deny vacation

I'm creating groups of 10-15 to meet for 2 hours for 12 consecutive months.

The groups will be formed based on common demographics.

For example, we're forming groups for medium size employers with full-time HR professionals as well as groups for small employers where HR is only part of their responsibilities.

We're also forming a group for Veterinary practices (practice/office managers, owners, etc.)

Each group will meet 2 hours per month, with the first hour focused on helping solve each other's HR questions and issues.

The second hour will be topic specific, with the year's topics being selected and designed by each group, so you get to design your learning experience.

payouts to employees who are terminated due to policy violations or who fail to provide adequate notice of their resignation.

According to the Court, earned vacation is considered wages and must be paid out at termination. So, our handbooks need to reflect this ruling.

I still recall the client who called me while standing next to a handcuffed employee who was apprehended by the police for stealing company merchandise. He called me to inquire whether he was obligated to pay the individual for unused vacation. Today's answer is yes.

Review your employee handbook to see how you're handling vacation pay at termination and make sure it complies as stated above. Delete any reference to withholding vacation at termination.

This ruling raises many other vacation pay issues that are not yet defined. Should this case be appealed to the MN Supreme Court, there may be further defining of vacation handling that we'll have to adjust to. Some of the unanswered questions that affect us include: Does this nullify our right to have use-or-lose vacation carryover provisions? How does this apply to PTO payouts, since some employers only pay out a portion of PTO since sick time is included?

If you're interested in participating or learning more about how an HR Mastery Group will work for you, call me at 952-996-0975 or email me at arlene@arlenevernon.com.

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Since there are no new rulings on these and other related time off questions, I would keep the remainder of your policies intact. But watch for future rulings. You never know what's going to change next.

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Planning Your Vacation

Well, not really *your* vacation, but your vacation policy. Since you're already reviewing your vacation policy, I suggest analyzing it in several other ways.

First, determinewhether your vacation policy is competitive. Many larger employers start employee accruals at 3 weeks per year. This is becoming the new base for time off and makes you more competitive especially when attracting seasoned employees to the workplace.

If you're a smaller employer, 2 weeks per year of vacation is more common. Although some of you are still at one week per year, place yourself in the employee's shoes of only getting 5 days off in 52 weeks. And those of you who have employees wait 12 months until their vacation kicks in, you're only granting 5 days off in 2 years.

If you're working in a non-profit organization, you may

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be offering more generous time off packages in exchange for potentially lower wages. I recommend that you look at the total time off your organization grants including sick days and holidays. Then compare these to the total number of days worked per year and recalculate salary. Make sure you've not created an overcompensation of employees.

Regarding the recent ruling, review your policy to see whether accruing on a monthly basis is the best option for you. I tend to prefer granting vacation in lump sum amounts rather than accruals. For example, you might provide 1 week of vacation at 6 months of employment and 2 weeks on each subsequent anniversary from hire. Under this scenario an employee quitting in month 5 receives no payout of vacation. Creating a similar formula may help you better manage your obligation to pay out vacation at termination.

Well, it's all food for thought. If I can help you with this or any other HR issue you may be facing, feel free to give me a call!

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About Arlene Vernon

Arlene Vernon, PHR, partners with small businesses

as their Human Resource Xpert to create their HR systems and solve their HR problems.

If you have gaps in your HR operation, have an employee problem to solve, or want to enhance your managers' skills, call Arlene today. Learn how HRx can save you time and help you avoid costly HR mistakes. HRx, Inc., Eden Prairie, MN 55344, 952-996-0975, www.HRxcellence.com.

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