A Practical Guide to Implementing Unlimited PTO

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Will an unlimited paid-time-off policy help your employees achieve work-life balance, or will it leave them confused and resentful? The author suggests employers can successfully implement such a policy with the proper consideration of issues like abuse and other leave programs.

by | Laura Earley, CEBS
Most of us keep our phones within arm’s reach at all times. With work e-mail and phone calls, personal e-mail, Boy Scout committee texts, school messages for the kids, Facebook comments and text notifications, my phone buzzes constantly. The same goes for vacation, where my phone is usually within reach, and I check in periodically to make sure the world isn’t falling apart. With the advent of computers, tablets and smartphones, we are connected to friends and family—and work—constantly. The line between work and personal time is blurred, at best.

We work during the day, in the evenings, on weekends and while on vacation, and so do many of your employees. Think about an executive who takes a vacation: He or she was probably in touch regularly and didn’t feel the need to record vacation hours after returning to the office, because of how much work was done during the break. So that executive builds up a healthy bank of vacation time at a healthy wage—a safety net of paid time off (PTO) if he or she leaves the company.

Financial considerations aside, revamping your traditional vacation program and creating an “unlimited” paid-time-off program might provide a healthy boost for employees and morale.

To Love or to Loathe?

According to Mercer’s 2015 Survey on Absence and Disability Management, 14% of respondents offered unlimited PTO to at least executives or exempt employees. An additional 7% of respondents were considering offering the benefit.

Those who love unlimited PTO say they feel like they’re treated like an adult, they can take whatever time they need away from work, and they are free from having to account for every little hour away from the office.

Some see it as a progressive benefit that can attract and retain top talent. It also eliminates the cumbersome tracking requirements and, most importantly, can eliminate significant future financial liability. And who among us doesn’t want the approval of our CFOs?

The single biggest reason for employers to offer unlimited PTO is to wipe their vacation time liability from their record books. Getting there isn’t as easy as taking the eraser to the balance sheet. There is still a current liability for existing time (in most states), but the future liability is what most CFOs are eyeing. Once you make the transition, the financial burden is eased considerably and ultimately eliminated altogether.

For employers, however, it can be an alarming proposition. Just the word unlimited strikes fear in the hearts of managers everywhere: “Do we really want to allow employees to take time off any time they want? What about those who abuse it? How are we going to keep people in their seats? No work will get done! This place will be empty! It’ll be anarchy!” (Bonus points for anyone who got the Breakfast Club reference.)

There are legitimate issues to consider prior to offering a free-for-all on time off, including abuse of the program, the coordination of time off with short-term disability (STD) programs and coordination with individual state sick time requirements.

The reasons that may make employers hesitant to jump on the unlimited PTO bandwagon include:

- Old-school leadership (otherwise known as “We’ve always done things this way.”)
- The legal complexity of administration
- Fear of abuse
- Face-time requirements of the job
- Accrued PTO of veteran employees
- Fear of the unknown.

Once you get into a routine, it’s hard to break, but the workforce is changing and many people want work-life balance. Unlimited PTO may be one strategy for providing that balance.

Abuse

Is there the potential for abuse under this type of time-off arrangement? Of course. It can be remedied, however, with management training and a detailed, comprehensive communication campaign to employees. When determining if your organization is at risk for abuse, consider the makeup of your employees. A highly skilled, educated workforce of self-driven employees who are go-getters likely will have enough self-awareness to ensure that their job responsibilities are met while they’re out or timely completed upon their return. The potential for abuse is likely higher for a workforce dominated by low-wage, entry-level employees.

If employees aren’t sure how much is too much, you can refer to your prior vacation accruals as a general guideline for acceptable absences. Also, training
Managers to ensure fairness and equity among their workforce is key, since the potential for favoritism may exist. While you might be more lenient with PTO requests from high-performing employees, make sure there aren’t other discriminatory factors causing managers to deny vacation requests.

Employers should recognize that “unlimited” vacation doesn’t mean employees have the freedom to get up and walk out at noon each day. Vacation time must still be scheduled, coordinated with other co-workers and approved by supervisors. Any abuse of the program is borne on the shoulders of the manager who approved the abusing employee to use more time than the employer would deem reasonable.

**Coordination With Short-Term Disability**

If you implement an unlimited PTO program, you certainly will need to set boundaries and guidelines for just how unlimited the unlimited PTO program will go for those who have extended absences related to personal medical conditions.

Unless you clearly define pay for absences related to disability and the Family and Medical Leave Act (FMLA), employees might expect to receive 100% of pay during a medical-related absence, regardless of the duration. How long will you continue to pay an employee to take care of an elderly mother or injured child? It is strongly recommended that you establish or clarify your FMLA or parental leave policies to reflect whether unlimited PTO is eligible for those types of absences.

If you have an STD program, maternity claims can be of particular concern. Six to eight weeks may be standard payment under the disability portion of the leave, but what sort of pay will be available to those individuals who take additional baby-bonding leave after their child is born? Whether it is the mother who continues the rest of her leave after the disability has ended, or a new dad requests 12 weeks of time off to be with his new baby, it is imperative to determine how much paid time an employee can expect to receive during those types of absences.

In addition, it would be wise to set clear guidelines for all managers to follow so there aren’t discrimination claims from one dad who was approved for only three paid weeks while another dad in another department was approved for 12 paid weeks. Establishing a separate parental leave policy will avoid any heartache or confusion over how much paid time is available for new parents outside of the STD plan.

**Special Time-Off Programs: Coordination With Mandated Sick Time Programs**

Does your organization have a combined PTO bank? Or are your sick and vacation balances separated? Do you have floating holidays? When implementing an unlimited PTO program, employers may choose to eliminate all of the special employee-friendly time-off benefits they previously provided: personal days, floating holidays or special religious observances not included in the traditional holiday pay program, except where prohibited by law.

Don’t ignore the multitude of local, state and jurisdictional paid sick time requirements that exist. An unlimited PTO program does not exempt you from compliance with these laws, some of which require employers to track hours worked, hours earned and hours used, often with a requirement to post available hours on an employee’s pay stub.

Certain state and jurisdictional sick time requirements mandate that employees earn a specific bank of sick time based on hours worked. In many cases, the provisions of those state or local programs are negated if the employer-provided PTO or sick time plan allows for a minimum time-off balance each year.

However, not all jurisdictions recognize unlimited PTO programs as being a sufficient substitute for the mandated sick time programs. Therefore, employers with unlimited PTO programs may, in some cases, be required to calculate and track sick time earned under those state and local ordinances.
Liability for Existing PTO or Vacation Balances

Moving to an unlimited PTO program requires an organization to determine how it will treat the existing vacation accruals for employees. Accrued vacation time—in most states—is considered to have a cash value to employees and cannot be taken away. Employers have numerous options at their disposal for either a cash distribution or a gradual decrease of the vacation bank liabilities.

Transitioning to unlimited PTO does not automatically require employers to eliminate the vacation liability value from their balance sheet in one fell swoop. If an organization has some spare cash lying around and wants to clean the financial records all at once, it can certainly pay employees the cash value of their existing balances and be done. While this becomes a hard-dollar expense, it creates two benefits: The employer eliminates the current liability from its books, and the balances paid out are paid at an employee’s existing rate of pay rather than at future rates of pay, which would cause an increase in the vacation bank value.

Employers also may choose to pay out a prorated portion of an employee’s accrued vacation balance over a period of time. When implementing this type of payout, employers should require employees to record any vacation usage as it occurs. Say an employee had six weeks of vacation at January 1, 2018, and the employer agrees to a 50% payout of the vacation balance as of December 31 for each of the next two years. If the employee took two weeks of vacation in 2018, the balance at December 31 is four weeks of vacation, so the employee would receive a cash payout of two weeks, or 50% of the balance. If the employee takes another two weeks of vacation in 2019, there is no cash payout at the end of 2019.

Likewise, an employer could value the vacation balances as of a point in time and agree to pay out the specific dollar values at future dates while freezing the balance and not permitting future wage increases to impact the value of the vacation bank liability.

A more cost-effective solution requires some technological considerations. Employers may avoid a cash distribution altogether by requiring employees to record any vacation time taken until such time as their balances have been eliminated. Stakeholders in payroll processing will need to be consulted to determine if current vacation accruals can be stopped while maintaining existing balances. Employees would be required to submit any vacation hours taken and would not be permitted to submit unlimited time off until their vacation banks have been emptied.

A word of caution...when choosing an option that does not pay out vacation balances, watch out for potential abuse among those individuals with significant vacation balances. Some may quit and get rehired at an organization just to receive a payout of their vacation time.

Be sure to involve your payroll and human resources information technology teams to ensure existing balances can be frozen without much struggle from a technological standpoint.

Be Prepared for Emotional Baggage

Employers should be prepared to communicate to all employees about the change in policy, even if the unlimited PTO policy does not apply to a specific segment of the company. If you offer a clear delineation between the haves and the have-nots, (for example, many employers offer unlimited PTO to all exempt employees, but not to takeaways

• An unlimited paid-time-off (PTO) program is one strategy employers are using to provide work-life balance for their employees.
• A 2015 Mercer survey found that 14% of respondents offered unlimited PTO to at least executives or exempt employees, and an additional 7% of respondents were considering offering the benefit.
• Advantages can include attracting and retaining top talent, eliminating cumbersome tracking and removing vacation time liability from the company’s balance sheet.
• Management training and a detailed, comprehensive communication campaign are important elements of a strategy to prevent abuse of an unlimited PTO policy.
• Other issues to be addressed include coordination with short-term disability programs and mandated state and local sick time programs.
hourly staff), employees will notice, even in ways you might not imagine.

Those in the have-not category will wonder why they aren’t good enough to participate in the plan. It should be clearly communicated that the employees covered by the unlimited PTO program are frequently working even outside of traditional working hours, and their work and personal hours are blurred regularly.

Those in the “have” category also may have some negative feedback. While some people view the unlimited program as a benefit, employers may incur some backlash from long-term employees with large vacation balances. Some employees who may fear losing their job hold on to large balances as a supplemental, pseudoseverance plan. They may lose that payout potential (particularly if they have to spend down their PTO balances) by converting them to an unlimited PTO program.

Some employees will view this as a takeaway because they lose the cash value of their vacation time if they leave the company. However, this program does not eliminate their ability to take time off as they fear it might.

**Want vs. Need—Are Employees Taking Too Little Time Off?**

There are also potential issues among those who take advantage of the program and use a larger-than-average-amount vs. those who really limit their time to what they truly need, and maybe do not take what they want. Managers will need to closely monitor those who are underutilizing the program.

We all have those employees who boast, “I can’t take any time off! This place would fall apart without me! You need me!” These individuals are constantly busy and fear the world will come to a screeching halt in the event of their absence.

Other employees simply don’t want to be seen to make a fuss. They only take what they actually need—a doctor’s appointment, a brief trip, a kid’s school activity, leaving early for an evening out—but not much more.

Let’s also not forget those employees who simply function better with the black-and-white parameters of a specific number of days off. Without that guidance, they don’t know what to do with an unlimited balance of time. So they work and only take the minimum.

Taking too little time off also can be bad for your employees’ health. Employers might consider implementing a minimum threshold employees are expected to take annually, to ensure employees are getting a healthy amount of time away from work.

Managers who encounter these types of individuals may need to encourage, strongly recommend or even demand workers take time away from work. For those who aren’t sure how much is too much, counseling a manager to use the old program guidelines as an acceptable amount of time off is usually a good course of action.

**Finally . . . What’s in a Name?**

That word unlimited strikes fear in the hearts of managers. It gives the impression that employees are permitted to take whatever time off suits their fancy. To alleviate that misperception, employers can call their PTO program anything they want to reduce the stigma of a free-for-all.

One employer I counseled decided to call its program “track-free vacation.” It gave the impression that when employees took vacation time, they didn’t have to track it. Call it what you will—track-free, unlimited, hassle-free, nonbalance PTO, personalized time off, life balance time off—those are just a few names to get your ideas flowing.

As always, it’s best to consult with an attorney to ensure that your transition plan meets all legal guidelines and that your communication plan is thorough.

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