

U.S. State By State Paid Time Off Guidelines

Paid Time Off is both an employee wellness and financial issue — **what are my state's regulations?**

sorbet



Paid Time Off 101

Paid Time off (PTO) is time off that an employer pays an employee to take. PTO includes vacation days, sick days, and holidays. When an employee does not use up their allotted PTO, they are left with “accrued time off”, time off that the **employee has earned but not yet used**. This becomes important at the end of a calendar year, or, when an employee leaves the company.

As an employer, establishing a policy that abides to your state laws is critical in terms of managing PTO accrual.

Why? Because these policies and regulations dictate what an employee can do with their accrued PTO.

Some states dictate how a company can manage accrued time, while others leave that responsibility to the employers themselves.

Depending on the company and state, an employee can do one of four things with their accrued PTO:

USE IT

This is when an employee actually uses the time off as time away from work

CASH IT OUT

This is when an employee cashes out the dollar value of a PTO day (rather than taking that time as a vacation day). Some companies may set limits to how much time or money each employee can cash out.

ROLL IT OVER

This is when an employee transfers unused PTO to the following calendar year. Some companies may set limits to how much time each employee can roll over to the next year.

FORFEIT IT

This is when an employee is forced to lose the days if a company has a “use it or lose it” policy. This policy states that an employee must use their PTO by a certain date, or, they risk losing it. This policy prohibits an employee from rolling over the earned time, or, from cashing out.

Establishing the Terms & Conditions of your PTO Policy.

Companies across the United States are revisiting their Paid Time Off programs. These policies need to clearly outline how your company handles all of the details of accrued time off including how employees accrue time off, cash out policies, roll over policies, and use-it-or-lose-it policies. The terms & conditions need to clearly state all of the aforementioned information before their PTO expires.



How To Calculate Accruals.

Hours worked

Days worked

Weeks worked

Pay periods worked

How a company pays an employee for earned but unused time off is determined by how the company calculates accruals. Employers prorate employees' time off to calculate how much they owe each employee. These calculations also take into consideration states with [mandatory paid sick leave laws](#).

Paid Time Off payout laws vary from State to State

Although states don't require companies to offer paid time off as a benefit to their employees, some state regulate PTO accruals. This means that states may have unused vacation pay regulations that may require an employer to:

Offer accrued vacation payout, or, roll over unused days at the end of the year (making use-it-or-lose-it policies illegal)

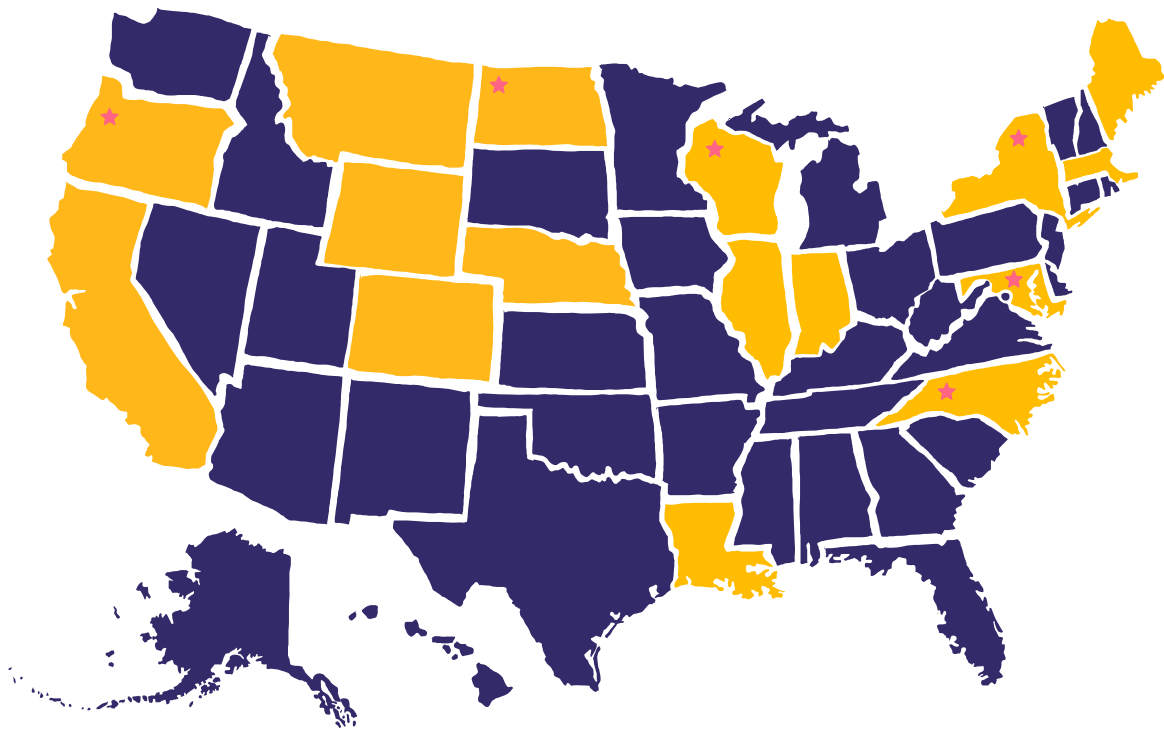
Include accrued vacation time as wages in an employee's final paycheck

Offer both 1 and 2

While not all states have PTO payout laws, many don't address what a company must pay an employee for their unused time off. Either way, employers must clearly address these nuances and details in their PTO policy and employee collateral.



State Requirements for Employers to Provide PTO Payout at Termination

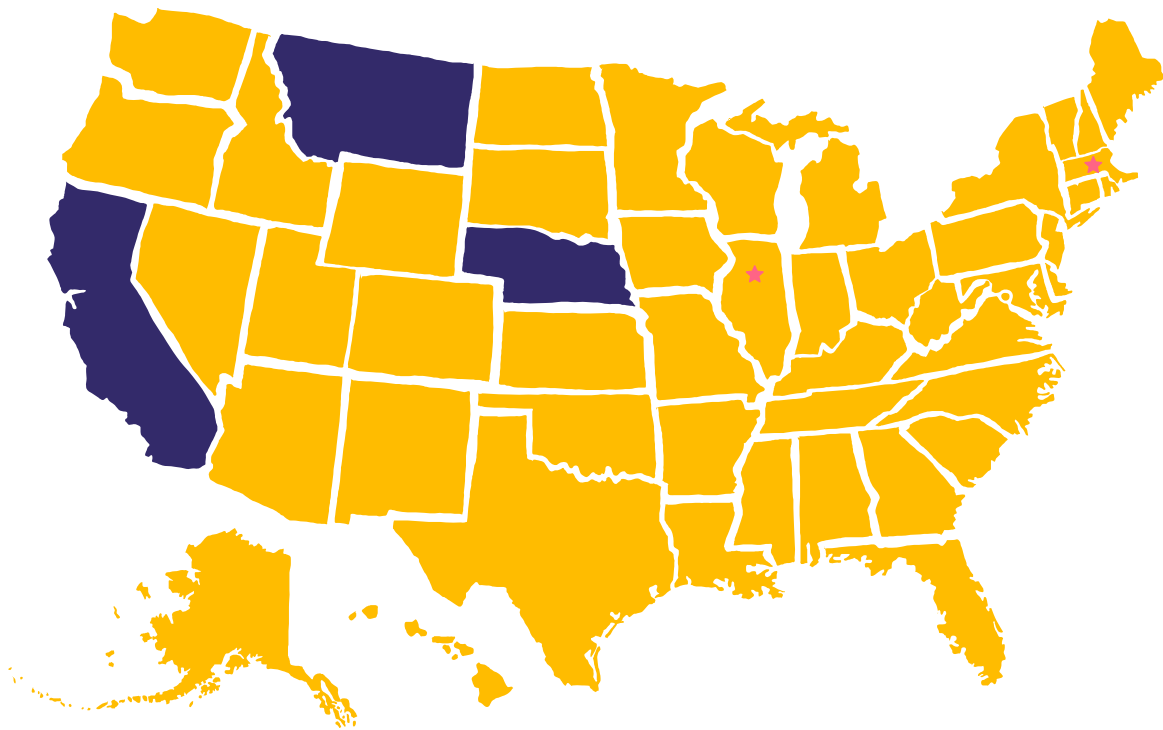


● Yes, the employer is required to provide PTO payout at termination

● No, the employer is not required to provide PTO payout at termination

★ Yes, but with exceptions

State Requirements for Implementing a Use-it- or-lose-it-Policy



● Yes, the employer can implement a use-it-or-lose-it policy

● Yes, the employer can't implement a use-it-or-lose-it policy

★ Yes, but with exceptions

PTO Payout Laws, by State

Please click on the state you are interested in to view that state's information

Alabama	Indiana	Nevada	Tennessee
Alaska	Iowa	New Hampshire	Texas
Arizona	Kansas	New Jersey	Utah
Arkansas	Kentucky	New Mexico	Vermont
California	Louisiana	New York	Virginia
Colorado	Maine	North Carolina	Washington
Connecticut	Maryland	North Dakota	West Virginia
Delaware	Massachusetts	Ohio	Wisconsin
D.C.	Michigan	Oklahoma	Wyoming
Florida	Minnesota	Oregon	
Georgia	Mississippi	Pennsylvania	
Hawaii	Missouri	Rhode Island	
Idaho	Montana	South Carolina	
Illinois	Nebraska	South Dakota	

State	Employers Can Implement a Use-It-Or-Lose-It Policy	State Requires that Employers Provide PTO Payout at Termination	Statutory Requirements Addressing Vacation Pay	Payment Terms of Accrued Vacation on Termination
Alabama	Yes	No	N/A	<ul style="list-style-type: none"> If an employer has a formal vacation policy, it may not unilaterally rescind that policy. Employers must notify employees in advance if they decide not to continue paying accrued, unused vacation upon separation.
Alaska	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or agreement determines whether earned, unused vacation is paid on separation.
Arizona	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Arkansas	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
California	No	Yes	<ul style="list-style-type: none"> Earned vacation time is considered wages. 	<ul style="list-style-type: none"> Employers must pay terminated employees for accrued vacation time in their final paycheck. California's accrued time law applies to vacation time or vacation time that is combined with sick time under a PTO policy.
Colorado	Yes	Yes	<ul style="list-style-type: none"> Earned vacation time is considered wages. 	<ul style="list-style-type: none"> Colorado's law only applies to vacation time, not sick time. Upon employment separation, all vacation pay must be accurately paid and delivered to the appropriate parties.
Connecticut	Yes	No	<ul style="list-style-type: none"> Wages do not include vacation time. 	<ul style="list-style-type: none"> Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Delaware	Yes	No	<ul style="list-style-type: none"> Vacation pay is negotiated between employers and their employees. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation. If they do, the value of the accrued time must be paid within 30 days of separation.
D.C.	Yes	No	<ul style="list-style-type: none"> Earned vacation is monetized in "final compensation". 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.

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Florida	Yes	No	N/A	N/A
Georgia	Yes	No	N/A	N/A
Hawaii	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation. If this is generally provided by an employer, it must be paid on an employee's last day.
Idaho	Yes	No	N/A	<ul style="list-style-type: none"> Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Illinois	Yes*	Yes	<ul style="list-style-type: none"> Earned vacation is monetized in "final compensation". 	<ul style="list-style-type: none"> Illinois does not prohibit use-it-or-lose-it policies in the workplace. However, they do regulate it. Additionally, Illinois law requires that employers provide PTO payout to terminated employees. Unless a willful agreement has been met by both parties, an employer's policy or agreement determines whether earned, unused vacation is paid on separation.
Indiana	Yes	Yes	<ul style="list-style-type: none"> When an employer provides paid vacation, it's considered deferred compensation in place of wages. 	<ul style="list-style-type: none"> Employers must pay employees for accrued vacation time when the employee is terminated. However, Indiana does say that vacation policies are generally left up to employers. An employer's policy or agreement determines whether earned, unused vacation is paid on separation. Without a policy in place, employees are entitled to any and all earned and unused vacation pay. Employers can specify conditions that employees must meet to receive vacation accrual pay. employees must meet to receive vacation accrual pay.
Iowa	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages. 	<ul style="list-style-type: none"> Employers that elect to provide vacation pay must comply with their established policies or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.

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Kansas	Yes	No	N/A	<ul style="list-style-type: none"> If requested by an employee, a vacation policy must be provided in writing or displayed. Employers may restrict the payment of accrued vacation if their policy, for example, states that: <ul style="list-style-type: none"> Employees will only earn vacation time when passing their anniversary date. Employees that separate prior to their anniversary dates will not be entitled to compensation. Employers are liable to provide the vacation pay established in their policy and practice.
Kentucky	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Louisiana	Yes	Yes	N/A	<ul style="list-style-type: none"> The state itself does not require employers to pay employees for accrued time off. Louisiana law requires employers who offer paid vacation to employees to pay out accrued time upon termination. For payment of unused vacation time, an employee must: <ul style="list-style-type: none"> Hold accrued vacation time. Be eligible to take a vacation at separation.
Maine	Yes	Yes	<ul style="list-style-type: none"> Employers are required to payout unused, accrued vacation time upon termination 	<ul style="list-style-type: none"> Applies to all private employers with 10 or more employees, The act does not apply to public employers within the state. State law treat violations for unpaid accrued vacation time the same as for other unpaid wages. Thus, violations could result in payment of the unpaid accrued vacation time, as well as liquidated damages equal to double the amount of unpaid accrued vacation time, and attorney's fees and costs.
Maryland	Yes	Yes*	N/A	<ul style="list-style-type: none"> The state does not require employers to pay employees for accrued time off. However, Maryland requires employers to pay employees for unused vacation time if the employer does not have a forfeiture policy that says otherwise. Without a written policy in place, highlighting the forfeiture of pay for accrued, unused vacation to a separating employee, the employee must be paid a cash value for earned, unused vacation.

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Massachusetts	Yes*	Yes	<ul style="list-style-type: none"> Earned vacation time is considered wages and employers are required to compensate employees for vacation pay. 	<ul style="list-style-type: none"> Although employers cannot force employees to forfeit their earned time, they can set use-it-or-lose-it policies. Employers can set an expiration date on accrued vacation as long as it's reasonable. And, employers can cap the amount of vacation time employees accrue or earn. Massachusetts employers must provide accrued vacation pay to terminated employees. Employers are liable to pay separating employees any earned, unused vacation
Michigan	Yes	No	<ul style="list-style-type: none"> Willfully contracted vacation pay is considered a fringe benefit, not wages. 	<ul style="list-style-type: none"> Employers are liable to pay fringe benefits if outlined in their written policy or contract. Employers cannot revoke or withhold any payments due at an employee's separation.
Minnesota	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Mississippi	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Missouri	Yes	No	<ul style="list-style-type: none"> Final wages do not include vacation pay. 	N/A
Montana	No	Yes	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> Employers who offer paid vacation time cannot establish use-it-or-lose-it policies. However, they can set a cap that limits how much an employee can accrue. If vacation has been "contracted for" (i.e., promised, in writing or verbally) then it must be paid out on separation.
Nebraska	No	Yes	<ul style="list-style-type: none"> Vacation pay is a type of fringe benefit in the state of Nebraska and considered wages. 	<ul style="list-style-type: none"> Employers are liable to pay separating employees any earned, unused vacation time.
Nevada (paid leave for any reason)	Yes	No	N/A	<ul style="list-style-type: none"> Employers may restrict the payment of accrued, unused vacation pay at the time of separation. However, employers should maintain a consistent policy.

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New Hampshire	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
New Jersey	Yes	No	<ul style="list-style-type: none"> Accrued and unused vacation are not considered wages. Earned, unused vacation will not be considered wages unless an employer's policy, agreement or union contract states otherwise. 	N/A
New Mexico	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
New York	Yes	Yes*	N/A	<ul style="list-style-type: none"> New York does not require employers to pay employees for accrued time off. Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
North Carolina	Yes	Yes*	N/A	<ul style="list-style-type: none"> North Carolina does not require employers to pay employees for accrued time off. Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
North Dakota	Yes	Yes*	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> Employers are liable to pay a separating employee for earned, unused vacation time before separation. For private employers: You may revoke payment for accrued vacation time if: <ul style="list-style-type: none"> The employer gave the employee written notice at the time of hiring about this policy. The employee has been employed for less than one year. The employee gave fewer than five days' notice before separation.
Ohio	Yes	No	N/A	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Oklahoma	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.

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Oregon	Yes	Yes*	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Pennsylvania	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Rhode Island	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages after one year of service when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> Employers are liable to pay separated employees accrued vacation pay if they have served one year, or more, at their organization.
South Carolina	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages after one year of service when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
South Dakota	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> No state regulations in place.
Tennessee	Yes	No	N/A	<ul style="list-style-type: none"> Employers are not liable to create a written vacation policy if they elect to provide vacation time. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Texas	Yes	No	N/A	<ul style="list-style-type: none"> Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Utah	Yes	No	N/A	<ul style="list-style-type: none"> Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation. If employers do not pay for accrued days upon separation, this must be state explicitly in the contract or policy.

State	Employers Can Implement a Use-It-Or-Lose-It Policy	State Requires that Employers Provide PTO Payout at Termination	Statutory Requirements Addressing Vacation Pay	Payment Terms of Accrued Vacation on Termination
Vermont	Yes	No	N/A	<ul style="list-style-type: none"> Employers who elect to provide paid vacation time are liable to their employees for these benefits. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Virginia	Yes	No	N/A	<ul style="list-style-type: none"> Employers are not liable to establish a policy regarding vacation pay. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
Washington	Yes	No	N/A	<ul style="list-style-type: none"> Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.
West Virginia	Yes	No	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> If an employer has a written policy stating that accrued vacation time will not be paid at separation, they will not be liable to pay an employee.
Wisconsin	Yes	Yes*	<ul style="list-style-type: none"> Earned vacation time is considered wages when an organization has established policies or precedent of paying employees for this time. 	<ul style="list-style-type: none"> Employers can decide whether or not to provide accrued vacation pay upon termination. However, employers who do not include a written forfeit policy are generally on the hook for paying unpaid vacation.
Wyoming	Yes	Yes*	N/A	<ul style="list-style-type: none"> Wyoming does not require employers to pay employees for accrued time off. Should an employer elect to offer vacation pay, the employer must honor the terms of its policy or employment contract. Employers must pay terminated employees for accrued vacation time if they do not have a written forfeiture policy in place that has been acknowledged by the employee. An employer's policy or employee contract governs whether earned, unused vacation is paid on separation.

Tips for predicting, managing and reducing accrued vacation liabilities

Here are a few simple steps you can take to reconstruct a healthy Paid Time Off program:

1

Calculate your predicted carry over liability, in both days and dollars (on a company level and per employee level) to better understand the liability on your books

2

Read up on your state's PTO payout laws

3

Consult your state for more details and verification

4

Define and write your company's Paid Time Off policy outlining how time is accrued, roll over restrictions, which days are off-limits to take time off, and how employees can cash out unused time

5

Make sure to include all of these details in your employee onboarding documents and handbooks

Want to predict and reduce your employees' accrued time off payouts while offering an innovative cash out benefit?

Sorbet's complimentary Health Check uncovers the economics behind your Paid Time Off Policy ensuring you get a clear picture of actionable data with a simple, guided process. Get in touch to coordinate your free Health Check and learn more about how Sorbet can optimize your Paid Time Off program.

Schedule a consultation [HERE](#)

-Or-

send us an email at

info@getsorbet.com

