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| **State** | **Statutory Provisions**  **Addressing Vacation Pay** | **Use-It-or-Lose-It Policy** | **Payment of Accrued Vacation on**  **Termination** |
| AL | Alabama does not have any state statute governing the payment of vacation time (see [*Amoco Fabrics and Fibers Co. v. Hilson*, 669 So. 2d 832,](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1995175209&pubNum=0000735&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_735_835&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=4C0D844BBEF2659C2B7B23EBB6A0599297B88F223C5ABA0D99E8A42FFCEE7F4F&contextData=(sc.Search)#co_pp_sp_735_835)  [835 (Ala. 1995)).](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1995175209&pubNum=0000735&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_735_835&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=4C0D844BBEF2659C2B7B23EBB6A0599297B88F223C5ABA0D99E8A42FFCEE7F4F&contextData=(sc.Search)#co_pp_sp_735_835) | Not addressed by state statute. | Not expressly provided for by state statute. However, if an employer communicates a paid vacation policy to employees, it may not unilaterally revoke that policy after performance by employees. For example, employees must be specifically notified in advance if the employer decides it will no longer pay accrued, unused vacation at termination. [(*Amoco*,](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1995175209&pubNum=0000735&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_735_835&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=4C0D844BBEF2659C2B7B23EBB6A0599297B88F223C5ABA0D99E8A42FFCEE7F4F&contextData=(sc.Search)#co_pp_sp_735_835)  [669 So. 2d at 835.)](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1995175209&pubNum=0000735&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_735_835&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=4C0D844BBEF2659C2B7B23EBB6A0599297B88F223C5ABA0D99E8A42FFCEE7F4F&contextData=(sc.Search)#co_pp_sp_735_835) |
| AK | Alaska law does not specifically address treatment of accrued, unused vacation pay. The issue is a contractual relationship between the employer and employees. | Not addressed by state statute. | Not expressly provided for by state statute. However, if an employer has a policy, promise, or contract to provide paid vacation, the Alaska Department of Workforce Development enforces the employer’s own rules for those payments. [(Alaska Department of Workforce Development: Employee FAQs).](http://www.labor.state.ak.us/lss/forms/employee_faq.pdf) |
| AR | None. | Not addressed by state statute. | Earned, unused vacation must be paid to departing employees if the employer provides paid vacation  according to an accrual plan and  vacation is earned according to that plan (*Oil Fields Corp. v. Hess,* 186  Ark. 241 (1932), [*Waymack v. KCLA,* 664 S.W.2d 509 (Ark. Ct.](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1984109596&pubNum=0000713&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=D0D730A6ED3D2B27B98292AB241FFA7B17E41E0CE11604E737B2168A26E42EF5&contextData=(sc.Search))  [App. 1984)).](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1984109596&pubNum=0000713&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=D0D730A6ED3D2B27B98292AB241FFA7B17E41E0CE11604E737B2168A26E42EF5&contextData=(sc.Search)) |
| AZ | Statutory definition of wages does not include vacation pay | Not addressed by state statute. | d |
| CA | Earned vacation time is considered wages. Vacation time is earned as work is performed. [(*Cal. Lab. Code § 227.3*;](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000215&cite=CALBS227.3&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=ACE3F91AB8968BBCD592CD8E44C6D956FDD7F64B29DC4B4244EABEF2A286FAD2&contextData=(sc.Search)) *Suastez v. Plastic Dress- Up Co.,* 647 P.2d 122, 128 (Cal. 1982).) | Prohibited. However, employers may impose a reasonable cap the amount of vacation employees can accrue. [(California DLSE: Vacation FAQs).](http://www.dir.ca.gov/dlse/faq_vacation.htm) | Earned, unused vacation time cannot be forfeited, regardless of the reason for termination, unless a collective bargaining agreement provides otherwise (*Cal. Lab. Code*  *§ 227.3*). |



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| CO | Employers may establish a vacation pay policy in  writing or by custom and practice. Employees must be made aware of the policy. Employers and  employees must follow the policy until it changes. (Colorado Division of  Labor Advisory Bulletins: Vacation.)  ”Wages” and “compensation” include vacation pay that is earned under the terms of any agreement. If the employer provides paid vacation, then on the  employee’s separation the employer must pay vacation pay earned and determinable under the terms of the agreement. (*Colo. Rev. Stat. § 8-4-*  *101(14)(a)(III)* and [Colorado Division of Labor Advisory Bulletins:](https://www.colorado.gov/pacific/cdle/node/20161)  Vacation.) | Not prohibited.  The Colorado Division of Labor (CDOL) provides that a use-it-or- lose-it policy is permissible if:  • The policy is included in an agreement between the employer and employee.  • The policy does not deprive an employee of  earned vacation time or the wages associated with that time.  • Any vacation pay “earned  and determinable” must be paid on employment separation.  • The agreement determines  when vacation pay is  “earned.”  [(Colorado Division of Labor](https://www.colorado.gov/pacific/cdle/node/20161)  [Advisory Bulletins: v](https://www.colorado.gov/pacific/cdle/node/20161)acation.) | Any vacation pay “earned and determinable” must be paid on  employment separation. The parties’ agreement determines when vacation pay is “earned.” If the agreement is silent or  ambiguous about when vacation becomes “earned,” the CDOL will consider:  • The employer’s historical  practices.  • Industry norms and standards.  • The subjective understanding  of the employer and employee.  • Other relevant factors.  (*Colo. Rev. Stat. § 8-4-*  *101(14)(a)(III)* and Colorado Division of Labor Advisory Bulletins: Vacation.) |
| CT | If an employer offers vacation time, the amount of vacation time an employee is entitled to is  governed by the terms of the employment contract or collective bargaining agreement. “Wages” do  not include vacation time (*Fulco v. Norwich Roman Catholic Diocesan Corp.,*  609 A.2d 1034, 1037 (Conn. App. Ct. 1992)). | Not addressed by state statute. | If employment is terminated, employers that offer vacation time must pay the employee’s accrued, unused vacation time and other  fringe benefits as wages if  specified under the contract or agreement (*Conn. Gen. Stat. Ann.*  *§ 31-76k*). |
| DE | Vacation benefits are a matter of contract between the employer and the employee (*Del. Code Ann. tit. 19, § 1109(a)*). | Not addressed by state statute. | If the employer’s policy is silent on the issue of paying accrued, unused vacation on termination, the employer is not obligated to pay. However, if the employer’s policy or an employment agreement between the employer  and employee provides for vacation pay on termination, the employer  must follow the terms of that policy or agreement. (*Del. Code Ann. tit.*  *19, §§ 1103* and [*1109(a)*).](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000005&cite=DESTT19S1109&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=SP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=D103F5DD7E4256760F3491A37A62D1AECB4946D7A57ECC12FE8AF7B7B520FED0&contextData=(sc.Search)#co_pp_8b3b0000958a4) |



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| DC | The definition of wages is broad and includes fringe benefits and other compensation. D.C. Code § 32-1301(3) | Not addressed by state statute. | Unused vacation is payable on termination if:  • The employer provides vacation time as part of employee compensation.  • There is no agreement to the contrary.  (See [*NRA v. Ailes,* 428 A.2d 816 (D.C. App. 1981) an](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=1981118726&pubNum=0000162&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=F0E6807F1D58F3E09B62F3FE0C4104D8D25D158319590E15CF06583D31B026ED&contextData=(sc.Search))d *Jones v. Dist. Parking Managers*, 268 A.2d 860 (D.C. App. 1970).) |
| FL | The definition of wages includes “the cash value of all remuneration paid in any medium other than cash”. Fla. Stat. §§ 443.036(45) and 443.1217. | Not addressed by state statute. | No state statute addresses payment of accrued vacation on termination. |
| GA | No statute on point, but courts will enforce an employer’s written policy. | Not addressed by state statute. | No state statute addresses payment of accrued vacation on termination.  Courts will require payment for accrued but unused vacation time pursuant to an employer’s written policy. |
| HI | No statute on point, but courts will enforce an employer’s written policy. (Hawaii Wage Standards Division: Vacation and Sick Leave). | Not addressed by state statute. | Whether an employer must pay for any unused vacation time depends  on the terms of any express agreement between the employer and employee or uniform custom  (*Casumpang v. ILWU Local,* 121  P.3d 391, 401 (Haw. 2005)). |
| ID | No statute on point, but if an employer chooses to provide paid vacation  benefits, the employer  must comply with the terms of its established  policy or employment contract (Idaho Department of Labor: Wage & Hour FAQs). | Not addressed by state statute. | An employer must pay accrued vacation to an employee after  separation from employment if the  employer’s policy or contract requires it (*Ferguson v. City of Orofino,* 131 Idaho 190 (1998) and *Jackson v. Minidoka Irrigation Dist.,*  98 Idaho 330 (1977)). |
| IL | ”Final compensation”  includes “the monetary equivalent of earned vacation” (*820 Ill. Comp. Stat. 115/2*). | Not prohibited. However, employees must have a  reasonable opportunity to take the vacation and notice of the policy. Employers are also free to  determine whether to permit carry-over of unused vacation days year to year, and if so, how many days may be carried over. (*Ill. Admin. Code tit. 56, §*  *300.520(e)*.) | If an employment contract or employment policy provides for  paid vacation, separated employees are entitled to earned, unused vacation time, unless a  collective bargaining agreement provides otherwise (*820 Ill. Comp. Stat. 115/2 an*[*d 115/5*).](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000008&cite=ILSTC820S115%2f5&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=2723D847F64717EAA6730EC1318D6607CFE705B4F645B70750952D6429F18F5A&contextData=(sc.Search)) |



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| IN | No statute on point, but if an employer provides paid vacation, it is  considered a type of  deferred compensation in lieu of wages and is  subject to the state’s Wage Payment Statute (*Naugle v. Beech Grove City Sch.,* 864 N.E.2d  1058, 1067 (Ind. 2007)). | Not prohibited *(Comm’r of Lab.,*  *et al v. Int’l Union of Painters,*  991 N.E.2d 100 (Ind. 2013)). | Unless an Indiana employer has an arrangement or policy placing  limitations on receipt of vacation  pay, a discharged employee is entitled to any earned and unused vacation pay (*Ind. Heart Assocs., P.C. v. Bahamonde,* 714 N.E.2d  309, 311-12 (Ind. Ct. App. 1999)). |
| IA | If an employer chooses to provide paid vacation benefits, it must comply with the terms of its policy or employment contract. Paid vacation benefits are considered “wages” (*Iowa Code § 91A.2(7)(b)*). | Not addressed by state statute. | An employer must pay a terminating employee for unused vacation only if the employer has a contract, policy, or procedure to pay vacation to departing  employees (Iowa Division of Labor: Wage FAQs). |
| KS | Vacation is included in the definition of wages. (K.S.A. 44-313(c); Kan. Admin. Regs. § 49–20–1(d))  A vacation policy or practice must be provided in writing or posted if requested by an employee (*Kan. Stat. Ann. § 44-*  *320(c)*). | Not prohibited (Kansas  Department of Labor: Workplace  Laws and Requirements: Fringe  Benefits). | Employers may restrict vacation policies by, for example, providing  that:  • Employees only earn vacation on reaching their anniversary date.  • Employees who separate before their anniversary date are not entitled to a pro-rata  payment.  (Kansas Department of Labor: Workplace Laws and Requirements: Fringe Benefits.)  Employers must provide vacation pay according to their policy or practice (*Dillard Dep’t Stores, Inc. v. Kan. Dep’t of Human Res.,* 13  P.3d 358 (Kan. Ct. App. 2000)). |
| KY | Vacation benefits are a matter of contract between  the employer and employee. [(*Berrier v. Bizer,* 57 S.W.3d 271,](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=2001829360&pubNum=0004644&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_4644_281&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=1182D741A1C5ACFABE43D6C67629DCAF34E6CB0DC918FE12267CF038592298D8&contextData=(sc.Search)#co_pp_sp_4644_281)  [281-82 (Ky. 2001).)](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=2001829360&pubNum=0004644&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_4644_281&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=1182D741A1C5ACFABE43D6C67629DCAF34E6CB0DC918FE12267CF038592298D8&contextData=(sc.Search)#co_pp_sp_4644_281)  ”Vested vacation pay” is  treated as wages (*Ky.*  *Rev. Stat § 337.010(1)(c)*). | Not addressed by state statute. | If an employer offers “vested  vacation pay,” employers must pay  departing employees the vested, unused vacation pay, whether the employee is terminated or leaves voluntarily. Vested vacation pay is treated as wages. (*Ky. Rev. Stat §*  *337.010(1)(c)*.)  However, if and when vacation vests is a matter of policy or contract between the employer and employee. Employers are not |



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|  |  |  | required to pay for vacation time that has not vested under a policy  or contract (or possibly an established practice). (See *Berrier,*  57 S.W.3d at 281-82.) |
| LA | Accrued vacation time can’t be forfeited upon separation of employment. (*La. R.S. 23:634*)  To be paid for unused vacation time, an employee must, according  to the employer’s stated  vacation policy, both:  • Have accrued vacation time.  • Be eligible to take the vacation at discharge or  resignation.  (*La. Rev. Stat. §*  *23:631(D)*.) | Not prohibited (*Wyatt v.*  *Avoyelles Parish Sch. Bd.,* 831  So. 2d 906 (La. 2002)). | Under the statute, employees must be paid for all accrued unused vacation time on termination  regardless of the reason for an employee’s termination (*Beard v. Summit Inst. for Pulmonary Med. and Rehab.,* 707 So. 2d 1233 (La.  1998)).  However, one Louisiana Court of Appeals court found that termination for cause may invalidate an employee’s claim for unused vacation pay (*Avila v.*  *Sanofi-Aventis,* 90 So. 3d 1132 (La.  Ct. App. 2012)). |
| ME | Paid vacation time will be treated as wages if, under  the terms of employment,  the employee is entitled to the vacation pay. (*Richardson v. Winthrop*  *Sch. Dep’t.,* 983 A.2d 400,  402-03 (Me. 2009)). | Not prohibited. Employees have no right to paid vacation except  as provided by the terms of their employment. (*Gibson v. Power*  *Maint. Int’ l, Inc.,* 2002 WL  31399791, at \*6 (D. Me. Oct. 24,  2002)). | On termination of employment, employers must follow the terms of  their established vacation policy  (Maine Department of Labor: FAQs: Question 6). |
| MD | If an employer chooses to provide paid vacation, it  must comply with the terms of its established policy or employment contract. (Md. Code Ann., Lab. & Empl. § 3-501(c); Maryland Department of Labor, Licensing and Regulation: What Is a "Wage"?.) | Not addressed by state statute. | If an employer does not have a written policy that limits pay for  accrued, unused vacation to a departing employee, the employee is entitled to the cash value of whatever earned, unused vacation  is left.  The employer is not required to make these payments if the employer has both:  • Established a written policy.  • Notified employees in writing at the time of hire that unused vacation is forfeited.  (Maryland Department of Labor, Licensing and Regulation: Unused Vacation at Termination.) |



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| MA | Paid vacation time is considered wages. Employers must compensate employees  for earned vacation time. (*Mass. Gen. Law. ch. 149,*  *§ 148*.) | Not prohibited, but employers must give employees:  • Adequate notice of the policy.  • Enough time to use the accumulated vacation time before the employer’s cut-  off date.  Employers may also place a cap on vacation accrual.  (*Elec. Data Sys. Corp. v. Att’y*  *Gen.,* 907 N.E.2d 635 (Mass.  2009).) | An employer must pay terminating employees all earned, unused vacation. |
| MI | Vacation provided under a written contract or policy is  considered a fringe benefit and not wages (*Mich. Comp. Laws §*  *408.471(e)*). | Not addressed by state statute. | Employers must pay fringe benefits according to the terms of their  written contract or policy and cannot withhold any payments due at an employee’s termination unless the employee agrees in writing of his own free will (*Mich. Comp. Laws §§ 408.473* and  [*408.474*).](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MIST408.474&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=68FF784E139B0F265751F8E9CA51530BE28EE7835E919D200C247ABD1DBAB756&contextData=(sc.Search)) |
| MN | If employers grant  vacation pay, paid time off or vacation pay constitutes  “wages” for wage payment  purposes (*Minn. Stat. Ann.*  *§ 181.13*).  Employers and employees may contract to the conditions under which employees receive  accrued vacation wages in the form of paid time off or a payment (*Lee v. Fresenius Med. Care, Inc.,*  741 N.W.2d 117, 124-126 (Minn. 2007)). | Not addressed by state statute. | The employer’s policy determines  what vacation pay is due [*(Minn.*](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000044&cite=MNSTS181.74&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=BA27D506BCA9FCC6A5AB9647B9482BBCC797349B85A6E5A2347F6D540C708D94&contextData=(sc.Search))  [*Stat. Ann. § 181.74*; M](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000044&cite=MNSTS181.74&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=BA27D506BCA9FCC6A5AB9647B9482BBCC797349B85A6E5A2347F6D540C708D94&contextData=(sc.Search))innesota Department of Labor & Industry: Labor Standards: Termination). |
| MS | None. | Not addressed by state statute. | Employment policy or contract determines vacation pay on  termination. For example, an  employee who is contractually due vacation pay at the time of his involuntary dismissal has a valid claim for the value of his accrued vacation time (*Fuselier, Ott & McKee, P.A. v. Moeller,* 507 So. 2d  63 (Miss. 1987)). |



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| MO | None. | Not addressed by state statute. | The definition of wages for purposes of determining final  wages due on termination does not include vacation pay (*Monterosso*  *v. St. Louis Globe Democrat Publ’g*  *Co.,* 368 S.W.2d 481, 488-89 (Mo.  1963); *Doores v. Intercontinental*  *Eng’g-Mfg. Corp.,* 670 S.W.2d 65,  67 (Mo. Ct. App. 1984)). |
| MT | Accrued and earned vacation time is similar to wages (see *Langager v. Crazy Creek Products,*  *Inc.,* 954 P.2d 1169, 1173-  1177 (1998)). | Prohibited. However, employers may have a policy that limits the employee’s ability to earn vacation pay at a designated level of hours (a maximum cap). Once the employee’s earned vacation hours drop below that limit, the employee’s ability to earn vacation pay restarts. (Montana Department of Labor & Industry: FAQs.) | Employer’s policy determines if vacation pay is due on termination [(Montana Department of Labor](http://wsd.dli.mt.gov/service/documents/laws_faq.pdf) & [Industries: Employment Laws, Question 14).](http://wsd.dli.mt.gov/service/documents/laws_faq.pdf) |
| NE | Paid vacation is a type of fringe benefit, which is considered wages subject  to the Nebraska Wage Payment and Collection Act (*Neb. Rev. Stat. §48-*  *1229*). | Prohibited (see *Roseland v.*  *Strategic Staff Mgmt., Inc.,* 272  Neb. 434 (2006); *Fisher v. PayFlex Sys. USA, Inc.,* 285  Neb. 808 (2013)). | All earned, unused vacation must be paid to departing employees  (*Neb. Rev. Stat. §48-1229(6)*;  *Roseland.,* 272 Neb. at 439; [*Fisher,*](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=2030468948&pubNum=0000606&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_606_819&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=9C3D447C8930C06B31B663164FF70CE8EF77321C147DCE64C4009DAC0B22FE5D&contextData=(sc.Search)#co_pp_sp_606_819)  [285 Neb. at 819; N](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=2030468948&pubNum=0000606&originatingDoc=Ie0db82868fcc11e498db8b09b4f043e0&refType=RP&fi=co_pp_sp_606_819&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=PLDocumentLink&billingHash=9C3D447C8930C06B31B663164FF70CE8EF77321C147DCE64C4009DAC0B22FE5D&contextData=(sc.Search)#co_pp_sp_606_819)ebraska Department of Labor Standards: FAQs). |
| NV | None. | Not addressed by state statute. | Employers are not required to pay employees for accrued but unused  vacation at the time of voluntary or  involuntary termination. However, employers should ensure that their  approach complies with existing policies and past practice. (Nevada Office of the Labor Commissioner: FAQs.) |
| NH | If an employer offers vacation pay or other  fringe benefits to employees, those fringe benefits are considered  wages when due (*N.H.*  *Rev. Stat. § 275:43(V)*).  Employers offering vacation pay and other fringe benefits must notify employees in writing, such as either:  • A notice posted in | Not prohibited. | Employer policy will govern. If a policy does not specify whether an employee must be paid for  accrued, unused vacation, the employer generally must pay the employee for this time when the  employee separates from employment (see *N.H. Code Admin. R. Lab. 803.03*). |



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|  | the workplace.  • As part of the employee  handbook.  (*N.H. Rev. Stat. §*  *275:49(III)*.) |  |  |
| NJ | The New Jersey wage laws do not prescribe that accrued and unused vacation constitutes wages and do not establish any requirements about accruing vacation or carrying it over from year to year. | Not addressed by state statute. | Unused vacation will not be not considered wages unless an employment agreement, union contract, or company policy provides that vacation will be cashed out on termination of employment, in which case an employee may have a claim for vacation pay if the terms of the agreement, contract, or policy are not followed (*Chrin v. Cambridge Hydrodynamics, Inc.,* 2003 WL  25754809 (N.J. App. Div. Dec. 30,  2003); see New Jersey Department of Labor & Workforce  Development: Wage and Hour  Compliance FAQs). |
| NM | None. | Not addressed by state statute. | Not required by state law. Employer policy will govern. |
| NY | If an employer chooses to provide paid vacation, it  must comply with its policy  or employment contract  (*N.Y. Lab. Law § 198-c*). | Not prohibited, but employers must give employees prior notice  of the policy (*Glenville Gage Co.*  *v. Indus. Bd. of App. of N.Y.,* 417  N.E.2d 1009 (N.Y. Ct. App.  1980); *N.Y. Lab. Law § 195(5)*). | An employer’s policy determines  whether earned, unused vacation is paid on termination [(New York Department of Labor: FAQs).](http://labor.ny.gov/workerprotection/laborstandards/faq.shtm#11)  An employer policy may specify that employees lose accrued benefits under certain conditions, as long as employees are given prior notice of the policy (*Glenville,*  417 N.E.2d at 1009). |
| NC | North Carolina employers are not required to provide vacation pay plans for  employees (*N.C. Gen.*  *Stat. § 95-25.12*). However, if an employer does adopt a vacation policy, that policy must address:  • How vacation is earned.  • How much vacation time may be carried | Not prohibited. Employees must be notified in writing of any policy that requires or results in loss or  forfeiture of vacation time or pay.  Employees who are not notified are not subject to the loss or forfeiture. (*N.C. Gen. Stat. § 95-*  *25.12*.) | An employer’s policy determines whether earned, unused vacation is paid on termination. |



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|  | forward from one year to another, if  any.  • When vacation time must be taken.  • Under what  conditions vacation pay will be forfeited upon termination of employment.  (*13 N.C. Admin. Code rule*  *12.0306(a)*.) |  |  |
| ND | Employers may provide paid time off, which is considered wages, and  includes:  • Annual leave.  • Earned time off.  • Personal days.  • Any other provisions intended to provide compensation as  vacation.  (*N.D. Admin. Code 46-02-*  *07-02(12)*.) | Not prohibited, if employees:  • Are given a reasonable opportunity to take the vacation.  • Have notice of the provision.  (*N.D. Admin. Code 46-02-07-*  *02(12)*.) | An employer must pay a terminating employee for earned paid time off at the regular rate of  pay earned by the employee before separation. An employment policy  or agreement cannot include forfeiture of earned paid time off at separation. (*N.D. Admin. Code 46-*  *02-07-02(12)*.)  However, if an employee voluntarily separates from employment, a private employer may withhold payment for accrued paid time off  if:  • The employer gave the employee written notice at the time of hiring of the limitation on payment of accrued paid time off.  • The employee has been employed for less than one  year.  • The employee gave less than five days’ written or verbal notice.  (*N.D. Cent. Code § 34-14-09.2*.) |
| OH | Vacation pay may be considered a fringe benefit and therefore wages. (*Ohio R.C. 4113.15)* | Not addressed by state statute. | An employer’s policy determines  whether earned, unused vacation is paid on termination (see *Winters- Jones v. Fifth Third Bank,* 1999 WL  342215 (Ohio Ct. App. May 27,  1999)). |
| OK | Vacation pay is considered wages under  Oklahoma law (*Okla. Stat.*  *tit. 40, § 165.1(4)*; *Okla. Admin. Code § 380:30-1-* | Not prohibited (*Okla. Admin.*  *Code § 380:30-1-5*). | An employer is required to provide vacation pay to departing employees if its contract or policy specifically requires it (*Okla. Admin. Code § 380:30-1-5(4)*). |



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|  | *8(d)*).  If an employer offers paid vacation benefits, it must follow the terms of its employment policy or contract (*Okla. Admin. Code § 380:30-1-8*). |  |  |
| OR | Paid vacation, if offered, is considered wages (see State *ex rel. Nilsen v. Or. State Motor Ass’n,* 432  P.2d 512 (Or. 1967)). | Not addressed by state statute. | Not required by state law; depends on employer’s written policies, agreements and past practices (Oregon Bureau of Labor and Industry: Technical Assistance for Employers: Benefits). |
| PA | Wages include fringe benefits, such as vacation  pay (*43 Pa. Stat. Ann. §*  *260.2a*; *Harding v. Duquesne Light, Co.,* 882  F. Supp. 422 (W.D. Penn.  1995)). | Not addressed by state statute. | An employer’s policy or agreement determines whether earned, unused vacation is paid on termination. |
| RI | Accrued vacation time is considered wages after  one year of completed service (*R.I. Gen. Laws §*  *28-14-4(b)*). | Not addressed by state statute. | After one year of service, employers must pay separated  employees accrued vacation time awarded by either:  • A collective bargaining agreement.  • Written or verbal company policy.  • Any other written or verbal  agreement between the employer and employee.  (*R.I. Gen. Laws § 28-14-4(b)*.) |
| SC | ”Wages” includes vacation pay (*S.C. Code Ann. § 41-*  *10-10(2)*).  Employers must notify employees in writing of the wages and hours agreed upon, and other related information (*S.C. Code Ann. § 41-10-30*). | Not addressed by state statute. | An employer’s policy determines  whether earned, unused vacation is paid on termination (South Carolina  Department of Labor: FAQs). |
| SD | None. | Not addressed by state statute. | Not required by state law. Employer’s policy will govern. |



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| TN | Employers are not required to establish a  written vacation policy if they choose to provide paid or unpaid vacation (*Tenn. Code Ann. § 50-2-*  *103(3)*). | Not addressed by state statute. | Employer’s policy or labor  agreement determines payment of earned, unused vacation on termination of employment (*Tenn. Code Ann. § 50-2-103(3)*; *Op. Tenn. Att’y Gen. 06-169 (2006)*). |
| TX | If an employer chooses to provide paid vacation, it  must comply with its  written policy or agreement (*Texas Lab.*  *Code § 61.001(7)(B)*; *40*  *Texas Admin. Code §*  *821.25(a)*). | Not addressed by state statute. | Required if promised by employer in a written policy or agreement,  subject to conditions imposed in  the policy or agreement (Texas  Workforce Commission: Accrued  Leave Payouts). |
| UT | If an employer chooses to provide paid vacation, it must comply with its policy or agreement (*Utah*  *Admin. Code r. 610-3-*  *4(B)(1)*). | Not addressed by state statute. | Employer policy or agreement will govern. (*Utah Admin. Code r. 610-3-4(B)(1)*) |
| VT | Employers who choose to provide paid vacation time, as stated in an  employee handbook, memorandum, or other correspondence are liable to their employees for  these benefits (Vermont Department of Labor: Summary of Vermont Wage & Hour Laws:  Benefits and/or Wage  Supplements). | Not addressed by state statute. | An employer’s policy determines whether earned, unused vacation is paid on termination (*Vermont Department of Labor: Wage and Hour*). |
| VA | Employers may establish any or no policy regarding vacation benefits (Virginia Department of Labor & Industry: Labor and Employment Law). | Not addressed by state statute. | An employer’s policy determines whether earned, unused vacation is paid on termination. |
| WA | There is no state law requiring employers to grant vacation time to employees. If an employer  offers paid vacation time, | Not addressed by state statute. | An employer’s policy determines whether earned, unused vacation is paid on termination (see Washington Department of Labor &  Industry: FAQs: Final Paycheck). |



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|  | the terms of the  employer’s policy or  employment contract governs the amount of vacation time to which the employee is entitled. (*Walters v. Ctr. Elec., Inc.,*  506 P.2d 883, 887 (Wash. Ct. App. 1973).) |  |  |
| WV | Accrued vacation and similar benefits constitute “compensation for work  performed,” which must be paid to an employee (*Farley v. Zapata Coal Corp.,* 281 S.E.2d 238,  241 (W.Va. 1981)). | Not addressed by state statute. | Accrued vacation does not constitute “wages” within the statutory definition to be paid on  discharge if the employer has a written policy stating that accrued vacation will not be paid in cash on termination. |
| WI | Wage payment includes holiday and vacation pay  (*Wis. Stat. § 109.01(3)*).  The statute does not specify how vacation time must be administered. | Not addressed by state statute. | Employer policy governs. If no policy or policy is silent, then the accrued but unused time must be paid. (*Wisconsin Department of Workforce Development: Wage Payment and Collection*.) |
| WY | If an employer chooses to provide paid vacation benefits, it must comply with its policy or employment contract (*Wyo. Stat. § 27-4-507*). | Not addressed by state statute. | An employer must provide terminating employees with accrued, unused vacation pay earned according to the employer’s policy (*Wyoming Department of Workforce Services: Labor FAQs*). |

