



## Department of Labor Set to Enforce Wage Protection Act

News

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Susan Schaecher was quoted in *Law Week Colorado* on September 28, 2015. The article “Department of Labor Set to Enforce Wage Protection Act” discussed why Colorado employers will need to lose their “use it or lose it” vacation policies.

Susan was quoted on her take of the new Wage Protection Act.

“My concern and my goal is that (employers) review their policies and make sure they’re in compliance,” said Susan.

Because employers are not required to offer earned vacation time, there is some leeway in how they implement these policies, but they must be careful to comply with the Wage Protection Action, she said.

She advised that employers review their policies to make sure they have a clear definition of when vacation pay is earned and that they don’t use language that could support a policy that earned vacation can ever be forfeited, she said. Once vacation time is earned, it cannot be unearned.

Examples of how employers might stay away from the consequences of running afoul of the rule include offering paid time off bank that includes vacation, personal time and sick leave within one pool. Although having one personal time bank might not be desirable for all employers, it’s one option that could allow employers to sidestep the issue.

Employers may also cap earned vacation time as well, Susan said. For example, an employer’s policy might say employees are able to accrue up to 80 hours of vacation time for one year to the next, they could lose any time that puts them over the 80-hour cap, according to the agreement.

Regardless of the policy an employer chooses to implement, though, it must be prospective, and any vacation time earned since January must be compensated, Susan said.

Susan said the division’s stance has been made clear, even if not in an official announcement, and that it will be made more clear as it enforces claims. One area she is waiting for resolution on is how the division defines time “earned.”

To read the full article, please visit [Law Week Colorado](#). [subscription required]

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