**Section 300.520 Earned Vacations**

a) Whenever an employment contract or an employment policy provides for paid vacation earned by length of service, vacation time is earned pro rata as the employee renders service to the employer.

b) Oral promises, handbooks, memoranda, and uniform patterns of practice may create a duty to pay the monetary equivalent of earned vacation.

c) Claims for vacation pay must be brought to the Department within 3 years from the date the vacation is earned.

d) Nothing in this Section shall be construed to reduce or impair the right of the claimant to maintain a civil action to recover additional vacation pay found due by a court.

e) An employment contract or an employer's policy may require an employee to take vacation by a certain date or lose the vacation, provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of the contract or policy provision.

f) The Department recognizes policies under which:

1) no vacation is earned during a limited period at the commencement of employment. The employer must demonstrate that the policy is not a subterfuge to avoid payment of vacation actually earned by length of service and, in fact, no vacation is implicitly earned or accrued during that period.

2) vacation is earned and accrues at an accelerating rate during the year. The policy is acceptable when the acceleration period and the changes in accrual rates are reasonable, and the policy is uniformly applied.

3) the employer does not have separate arrangements for vacation and sick leave. Under the policy, employees earn a certain amount of "paid time off" that they can use for any purpose, including vacation and sick leave. Because employees have an absolute right to take this time off (unlike traditional sick leave in which using sick leave is contingent upon illness), the Department will treat "paid time off" as earned vacation days.

g) Any employer that provides paid vacation to its employees must maintain true and accurate records of the number of vacation days earned for each year and the dates on which vacation days were taken and paid.

h) An employer cannot effectuate a forfeiture of earned vacation by a written employment policy or practice of the employer.

(Source: Amended at 38 Ill. Reg. 18517, effective August 22, 2014)