

HR QUESTION ? of the month



Time off denial – Legal or not?

Question: Our company has recently instituted a new policy for requesting time off when another employee is already scheduled off and/or an employee who covers for the new requester's time off will be covering someone else and/or on vacation themselves consecutively with the new request. We have limited employees and only a few employees that cover for other employees. We have implemented that no two employees may be off at the same time and that all employees must review the vacation calendar prior to submitting a request for time off. All employees have access to the vacation calendar and it is updated each time a request has been approved. If an employee needs to request time off during either of those situations, we have requested that the employee provide a reason that they need off so that we can make a determination whether or not to approve the request.

We have one employee who refuses to provide a reason and is requesting time off when another employee is already scheduled to be off. The person who covers for the newly requesting employee is off on the day after she would be required to cover for the newly requesting employee if she was granted time off. She refuses to give a reason, just states, "it's personal," and therefore we have stated we could not approve the time off. We do not normally request a reason when employees request time off, only in this special circumstance do we ask a reason. We have been having many issues arise when we give two or more employees off at the same time in the past and have instituted this new policy as a way to avoid this issue in the future. All employees were notified of the change in December, prior to the institution of the change. Can we deny her request for a personal day if she does not provide a reason?

Response: We are not aware of any law prohibiting the employer from denying a vacation request under the circumstances you describe. You advise that the employer asks employees to disclose the reason for time off requests only when there would be a resultant lack of coverage if the request is granted, which is something the employer is willing to allow only in emergent or other legitimate cases (and we trust this includes cases where the time off may be required by law, such as to accommodate a disability or sincerely held religious belief, or for jury, witness or military service, etc.). To the extent the employer's policy is clear on this issue (and you indicate that it is), and an employee is refusing to disclose the reason for her request, we are not aware of any law that requires the employer to grant it based only her assertion that "it's personal." Indeed the employer cannot ascertain from such a vague explanation whether the request for time off is protected by law, and where it is not (and the employee would need to let you know if it was), the employer is not required to grant the time off as requested pursuant to your company's policy (which you advise grants the employer some discretion here). The employer must ensure, though, that a time off denial in this situation is consistent with employer policy and practice to avoid discrimination concerns.

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